CRIME & SEX IN ANCIENT INDIA

S. C. BANERJEE

CRIME & SEX IN ANCIENT INDIA

CRIME AND SEX
IN
ANCIENT INDIA

SURES CHANDRA BANERJI, M.A., Ph.D.,
Formerly Professor of Sanskrit, Education
Deptt., Govt. of W. Bengal. Secretary,
Vaṅgīya Sanskrit Śikṣā Pariṣat.
and
Author of *Dharmasūtra—a study, Indian Society in the Mahābhārata, Tantra in Bengal, Kālidāsa-kośa, A Companion to Sanskrit Literature, A Companion to Middle Indo-Aryan Literature, Aspects of Ancient Indian Life, Cultural Heritage of Kashmir* etc. etc.

NAYA PROKASH
206, Bidhan Sarani, Calcutta-6.

Published by
B. Mitra
Naya Prokash,
206, Bidhan Sarani,
Calcutta-700 006.

First published in January, 1980

Price Rs. 70·00

State Museum Library
5210
Lucknow

Engraver
Process & Allied Guild,
12, Pratap Chatterjee Street,
Calcutta-700 012.

Cover printed at
Militant Enterprise,
42, Mahendra Goswami Lane,
Calcutta-700 006.

Printed by
D. Dutta
Arunima Printing Works,
81, Simla Street,
Calcutta-700 006.

PREFACE

Man has an innate tendency to commit offence. Some do so out of natural propensity, some act under the influence of liquor or environment while others are compelled by economic necessity It is by education and good association that the mischievous instinct is sublimated.

As in other countries, in ancient India, too, some people used to commit offences of various kinds. The social leaders and law-makers provided for suitable punishments. The nature of the acts of commission and omission was not very much different from what it is to-day. Human nature has been basically the same throughout ages. Theft, murder, non-repayment of debt, boundary disputes, selling others' goods as one's own—these and other offences were there in ancient Indian society too.

In punishment, however, there were certain peculiarities in ancient India. The idea of sin attached to many offences so that a wrong-doer, besides suffering punishment, inflicted by the king, had also to perform expiatory rites. For example, a thief, who stole gold belonging to a Brāhmaṇa, committed a grave sin. For him not only punishment by the king was prescribed ; he had also to atone for the sin involved.

The gravity of an offence was determind by the following factors : motive, caste of the offender and that of the aggrieved person, status etc. Discrimination depending on castes is not there in the modern law. As at present, in those days also the degree of punishment was determined by the consideration of the sex and age of the offender.

Some offences, mentioned in the *Indian Penal Code*, are absent in ancient India. Though rebellion or sedition is mentioned, yet offences relating to the army, e.g. an ordinary man's putting on military dress or stealing that dress are not mentioned. The provisions regarding unlawful assembly, which requires punishment for forming a group of five or more persons for defying law, offences regarding election—about the punishment for these offences there is no provision in ancient India. The majority of the offences of the *Indian Penal Code* is mentioned in the ancient treatises.

We propose to give here an idea of the outlook of the ancient Indians on crimes—whether death-penalty was regarded as proper, whether a person was allowed to commit suicide etc.—and various other questions relating to the matter. The *History of Dharmaśāstra* by Kane is too erudite and exhaustive for the general reader.

Ancient India advocated four ends of human life, viz. *Dharma, Artha, Kāma* and *Mokṣa.* Regular *Śāstras* were formulated to discuss them. In our treatment of crimes, we have utilised the *Dharmaśāstras* and the *Arthaśāstra.* In dealing with sexology, we have taken the help of the erotic science. Many educationists, both eastern and western, think that in order to build up a healthy society there should be provision for sex-education of students ; the sexual awareness and urge are an essential part of human nature. At a particular time, this instinct must agitate the mind of men and women. It is just at that time that they require sex-education and guidance. Otherwise, they are likely to go astray, and prove to be harmful to the society. The great difference between an educated and uneducated man is that the former, before reaching the threshold of life, gathers experience by which, as he enters into the hall of life, the dark recesses are illuminated. The uneducated, however, move about aimlessly in that darkness and are likely to get into pitfalls or suffer on slippery ground. The same remark applies to sexual life. Natural urge, unhealthy influence of a section of the society, obscene pictures of the cinema, picaresque literature, ribald books—all this leaves a deep imprint on the impressionable mind of the young people. Being inexperienced, they are led astray. This causes serious damage to their personal, family and social life.

According to social custom, in most families, the curiosities and questions relating to sex-life in the mind of the young cannot be talked about with the superiors. The result is that they take their companions into confidence. Consequently it is the blind that lead the blind. Those who are shy do not speak out their minds to anybody and suffer from inhibition. Some, under the sexual urge, even run mad, fall victims to mental disorders or go astray.

The natural sexual urge can be guided through proper channel by real knowledge of sexual science. Some people become unhappy due to sexual maladjustment in married life. Such couples sometimes suffer from mental diseases or snap their marital tie.

Those who marry at a premature age are likely to think that marriage provides an opportunity for freely gratifying the sexual urge. Another attitude too is harmful. Many youngsters think that man is predominant so that he need not try to understand his partner's mind in sex-life nor is it necessary to have a consideration for her feeling or reaction. Erotic science will convince them that man and woman are but two flowers in the same stem. They will learn that sexual gratification is not the sole object of marriage. In the words of Kālidāsa, the husband and wife are *parasparena spṛhaṇīyaśobha*, the beauty of one is covetable to the other. This beauty is not merely of the body but of the mind too.

Some works on sexology are available in English. But, while some are suitable for western society, others deal with certain aspects only. Meyer's *Sexual Life in Ancient India* lays greater stress on the literary aspect of sexology than on the science. Chakladar's work is based on Vātsyāyana. Bhattacharya's book seeks to give a re′sume′ of the extant works on the subject.

We have tried to present a picture of sexology as we have it in the works on erotic science and the sexual life reflected in works in Sanskrit, Pāli and Prākrit. Rudiments of genetics contraception and abortion, available in Āyurveda, have also been included. We have given an outline of erotic motifs delineated in sculpture and painting.

It is our plan to present the views of ancient thinkers as objectively as possible. This will enable the reader to make a comparative study of the modern theories on the subject. The author does not believe that whatever is in ancient works is infallible. Nor does he subscribe to the view that all that is old is not good. In the words of Kālidāsa, the wise examine the old and the new before accepting or rejecting the one or the other.

We have dealt with Criminology and Sexology against the social setting.

Under Criminology we have included Prostitution which is not itself a crime, but a number of crimes are associated with it.

In one Appendix we have listed the offences and the corresponding punishments.

In a Glossary we have given the technical terms relating to the above two branches of study.

In conclusion, it is the author's most pleasant duty to express gratitude to the earlier workers in the field. The works from which considerable help was derived are Kane's *History of Dharmaśāstra,* M. Ghosh's *Glimpse of Sexual Life* etc., Kangle's *Kauṭilīya Arthaśāstra,* III (A study), S. K. De's *Treatment of Love in Sanskrit Literature, Ancient Indian Erotics and Erotic Literature*, N. Bhattacharya's *History of Indian Erotic Literature* etc.

Sri B. Mitra of Naya prokash deserves thanks for his love of ancient Indian wisdom, demonstrated by his undertaking the publication of this work.

May a persual of this book make the personal life of people more beautiful, social life healthier ! *Sarve sukhinaḥ santu*—with this prayer the author stops.

S. C. Banerji

CONTENTS

Preface

Introduction xiii

Chapter *Page*

I. Social Background 1
[Vedic Age—1, Epic Age—2, Purānic Age—3, Age of Dharmaśāstra and Arthaśāstra—4, Tantra—4]

II. Concepts of Sin and Expiation .. 16

III. Works on Crimes 18

IV. Judicial Procedure 21

V. Offences Relating to Movable Properties 26
[Theft and robbery—26, Non-recovery of debts—29]

VI. Offences Relating to Money 30
[Non-recovery of debts—30, Surety—31, Usury—31]

VII. Offences Relating to Immovable Properties 33
[Residence—34, Road, Tank etc.—34, Trees—35]

VIII. Miscellaneous Offences 36
[Shirking Responsibilities—36, Exploitation of Popular Beliefs—36, Sedition—36, Deceitful Transaction—37, Sāhasa—37, Bribery—38, Non-payment of Wages—38, Non-performance of Work—39, Non-return of Hired Things—39, Master and Servant—39, Prostitutes—40, Non-service—40, Trainer and Trainee—40]

Chapter *Page*

IX. Offences Relating to Purchase and Sale 41

X. Offences Relating to Mortgage .. 44

XI. Offences Relating to Partnership Business 46

XII. Offences Relating to Breach of Contract 47

XIII. Offences Affecting Human Body .. 49

[Injury—49, Murder—50]

XIV. Abuse 55

XV. Strī-saṃgrahaṇa 57

XVI. Offences Affecting Animals 60

XVII. Offences Against the King 61

XVIII. Offences Relating to Gambling and Animal-betting 64

XIX. Offences Relating to Litigation .. 66

XX. Police System 67

[Arrest—68]

XXI. Prison 71

XXII. Espionage 73

XXIII. Offences and Offenders in Literature .. 76

[Age of the Vedas—76, Age of Brāhmaṇas—77, Age of Sūtras—77, Pāṇini and Patañjali—77, Rāmāyaṇa and Mahābhārata—77, Purānic Age—78, Age of Smṛti—78, Arthaśāstra—78, Science of Theft—79, Classical Sanskrit Literature—79, Pāli Literature—81, Prākrit and Apabhraṃśa Literatures—82]

XXIV. Prostitution 83

[Words denoting prostitutes—83, Secret and open prostitution—84, Observations of

Chapter *Page*

authors on the enjoyment of prostitutes—84, Wiles of prostitutes, their profession—84, Position of prostitutes in society—87, Description of courtesans in anthologies—89]

XXV. Works Dealing with Sexology .. 92

[Nāṭyaśāstra and Alamaāraśāstra—96, Prostitution—97]

XXVI. Sexual Life 99

[Vedic Age—99, Age of Brāhmaṇas—100, Upaniṣads—100, Age of Sūtras—100, Patañjali—100 The Rāmāyaṇa and Mahābhārata—101, Purānic Age—102, Smṛtiśastra—103, Kāmasutra—103, Different classes of men and women—106, Time permitted or prohibited for sexual enjoyment—107, Good and bad signs of women—107, Practics prohibited in monthly period—108, Rules and regulations about the moulding of the shape and nature of childern yet unborn—108, Sexology in Āyurveda—108, Sexual enjoyment in Tantra—111, Sex-life in Nāṭyaśāstra and Alaṃkāraśāstra—111, Influence of sex-impulse on Sanstrit Literature—114, Influence of sex-impulse on Vaiṣṇava Literature—122]

XXVII. Erotic Gestures and Sex-Act .. 124

XXVIII. Impact of Sex-life on Painting and Sculpture 128

XXIX. Sex-influence on Myths and Legends .. 138

[Perverse Sex-act—139]

XXX. Sex-act and Ethics 140

Chapter *Page*

IX. Offences Relating to Purchase and Sale 41

X. Offences Relating to Mortgage .. 44

XI. Offences Relating to Partnership Business 46

XII. Offences Relating to Breach of Contract 47

XIII. Offences Affecting Human Body .. 49
[Injury—49, Murder—50]

XIV. Abuse 55

XV. Strī-saṃgrahaṇa 57

XVI. Offences Affecting Animals 60

XVII. Offences Against the King 61

XVIII. Offences Relating to Gambling and Animal-betting 64

XIX. Offences Relating to Litigation .. 66

XX. Police System 67
[Arrest—68]

XXI. Prison 71

XXII. Espionage 73

XXIII. Offences and Offenders in Literature .. 76
[Age of the Vedas—76, Age of Brāhmaṇas—77, Age of Sūtras—77, Pāṇini and Patañjali—77, Rāmāyaṇa and Mahābhārata—77, Purānic Age—78, Age of Smṛti—78, Arthaśāstra—78, Science of Theft—79, Classical Sanskrit Literature—79, Pāli Literature—81, Prākrit and Apabhraṃśa Literatures—82]

XXIV. Prostitution 83
[Words denoting prostitutes—83, Secret and open prostitution—84, Observations of

Chapter *Page*

authors on the enjoyment of prostitutes—84, Wiles of prostitutes, their profession—84, Position of prostitutes in society—87, Description of courtesans in anthologies—89]

XXV. Works Dealing with Sexology .. 92

[Nāṭyaśāstra and Alaṃaāraśāstra—96, Prostitution—97]

XXVI. Sexual Life 99

[Vedic Age—99, Age of Brāhmaṇas—100, Upaniṣads—100, Age of Sūtras—100, Patañjali—100 The Rāmāyaṇa and Mahābhārata—101, Purānic Age—102, Smṛtiśastra—103, Kāmasutra—103, Different classes of men and women—106, Time permitted or prohibited for sexual enjoyment—107, Good and bad signs of women—107, Practics prohibited in monthly period—108, Rules and regulations about the moulding of the shape and nature of childern yet unborn—108, Sexology in Āyurveda—108, Sexual enjoyment in Tantra—111, Sex-life in Nāṭyaśāstra and Alaṃkāraśāstra—111, Influence of sex-impulse on Sanstrit Literature—114, Influence of sex-impulse on Vaiṣṇava Literature—122]

XXVII. Erotic Gestures and Sex-Act .. 124

XXVIII. Impact of Sex-life on Painting and Sculpture 128

XXIX. Sex-influence on Myths and Legends .. 138

[Perverse Sex-act—139]

XXX. Sex-act and Ethics 140

Chapter *Page*

XXXI. Preservation of Youth, increase of Sexual Vigour and Physical Charm .. 146

XXXII. Love in Sanskrit Literature 148

Appendix

Crimes and Punishments 152

Glossary 157

Select Bibliography

Chronology

Index

Chapter XXIV Wrongly printed as XXII
Chapter XXV Wrongly printed as XXIII
Chapter XXVI Wrongly printed as XXIV
Chapter XXVII Wrongly printed as XXV
Chapter XXVIII Wrongly printed as XXVI
Chapter XXIX Wrongly printed as XXVII
Chapter XXX Wrongly printed as XXVIII
Chapter XXXI Wrongly printed as XXX
Chapter XXXII Wrongly printed as XXXI.

INTRODUCTION

In a sense, every man has a split personality. He has good as well as evil propensities. In modern times, man is presumed to be basically good. It is believed that he resorts to evil due to the influence of environment or the pressure of circumstances. If there is no sublimation of primitive instincts of man by proper education and training he acts like a beast, and takes to antisocial activities.

In ancient India, the leaders of the society used to think deeply about ethics for the proper conduct of a man in his personal, family and social life. Many rules and regulations were framed in the *Mahābhārata,* Smṛti, and other Śāstras as well as in the works of Classical Sanskrit literature. Many works of the Pāli, Prākrit and Apabhramaśa literatures also contain such rules and regulations. Though there are differences among various sects like the Śākta, Vaiṣṇava etc., there is little fundamental difference. The same remark applies also to the Hindus and Bauddhas.

In Dharmaśāstra etc. the word *Pāpa* (sin) has been frequently used. *Pāpa* arises in two ways, viz., the omission of what is ordained and the commission of what is prohibited. *Pāpa*, in its wider sense, includes both sin and crime. By sin we generally understand such activities as are supposed to be against the will of god and the result of which is obtained by the sinner personally.

Those who are atheistic say that sin is the transgression of conventional rules relating to one's personal life. For example, it is sin not to respect one's parents ; this does not affect the society. The person concerned is responsible for such conduct for which he may suffer.

Crime is antisocial and antigovernment. By this one violates the law. The king does not punish a man for his sin, but he does punish one for a crime. In Hindu scriptures there is provision for expiation of sin. Certain atonements are prescribed even for washing off the guilt resulting from crime. Certain acts, which were not criminal but antisocial were also punishable.

Maine in *Ancient Law* (Chap. 10, 3rd. Ed. 1866) says (page 370) that, in ancient countries like Greece, Rome etc. jurists paid more attention to the remedy of a wrong committed by a person than to the punishment for crime. In English terminology it comes under law of torts. If a person is injured by another, he may obtain financial compensation by suing the accused in a Civil Court. This principle, however, was not applicable in the case of ancient Indian law. For certain offences the king would punish the offender *suo moto*. In serious offences like theft, adultery etc., the Smṛti has provided not only for damage payable by the offender but also for fines. As instances we may refer to Yājñāvalkya (II. 222), Kātyāyana (787) etc. In these verses there are provisions for punishment of the accused for causing physical pain to others or for mutilating their bodies. Besides, there is provision for the payment of medical expenses to the person injured and of solatium to him. In *Āpastamba Dharmasūtra* (I. 9. 24. 1, 4), there is provision that the murderer of a Kṣatriya shall have to give 1000 cows as compensation to the family of the person killed and a bull as atonement. To reconcile Manu (XI. 127) and Yājñavalkya (III. 266), however the commentator Haradatta says that both the cows and the bull are meant for expiation. The Penal Code of Ancient India generally states 18 kinds of disputes. These are as follows : non-repayment of debts, deposit, sale of an article by one who is not its owner, partnership business, non-delivery of a thing promised, non-payment of wages, breach of contract, dissatisfaction over sale and purchase, quarrel between the owner and keeper of cattle, boundary disputes, abuse and assault, theft, *Sāhasa* (see *infra*), abduction of a woman, gambling, animal-betting, mutual duty of wife and husband, partition.

Of the above, the following five are crimes in modern terminology : abuse, too severe punishment, theft, abduction, and *Sāhasa*.

In this connection, something should be said about vices (*vyasana*). The word *vyasana* has this derivative meaning—that which leads a person astray from his duty.

Manu divides (VII. 47-48) vices into two classes, viz. arising out of passion and arising out of anger. Those arising from passion are hunting, dicing, day-sleep, slander, illicit sexual relation, drinking, dance, song, instrumental music, loitering. These offences, excepting illicit sexual relation, are not punishable by the king. Those arising out of anger are *paiśunya* (discovery of unknown fault) *Sāhasa*, *Droha* (murder through a ruse) Jealousy, animosity, taking away others' money, abuse, severe punishment. Of these, the second, third, sixth and the last two are punishable under the law.

Sāhasa has a wide meaning. It includes violent and forcible acts before people, taking away public goods, an act done forcibly ignoring local prohibition and protests by people. In accordance with its gravity it is of three kinds, highest, middle and the first.

In Smṛti the word *ātatāyin* has a special significance. Though ordinarily meaning an enemy, it technically means the following kinds of mischievous people :

An incendiary, poisoner, one who comes with a weapon to kill another, one who steals such a sum of money that the owner becomes unable to live, taking away another's cornfield, abduction of another's wife. According to some, one, who wants to kill another by Atharvanic magic and complains to the king about a person without his knowledge, also belongs to this class.

The bibliography at the end of the book will help the readers who want to make profit by the wisdom of our ancients.

CHAPTER I

SOCIAL BACKGROUND

For an account of the criminology and sexology of an age it is necessary to have an idea of the society in which these sciences developed. So, here we shall deal briefly with the milieu.

Ancient Indian society was dynamic and full of diversities. Nobody knows when civilisation dawned in India. Relics of the pre-Vedic Indus Valley civilisation are available in Mohenjo-daro and Harappa. But, the script, used by the people in that age, has not yet been deciphered. We do not know of any literature of that age. So, it is not possible to make a full assessment of the thoughts and activities of those people.

Vedic Age

The earliest record of this age is found in the *Ṛgveda*. In it, however, we at once meet with the dawn of civilisation but not the twilight. The civilisation, reflected in the four Saṃhitās, Brāhmaṇas, Āraṇyakas, Upaniṣads, Kalpasūtras and the other Vedāṅgas, may be broadly called Vedic.

The main characteristics of this age are as follows :

In comparison with the aborigines, the Aryans had a higher and refined culture. Their military tactics and weaponry were also of a higher order. They appear to have defeated the *dāsas* and pushed them into the hilly regions. *Dāsa* probably denotes the dark-skinned non-Aryans. This word was also used to mean servant or slave. The non-Aryans often used to disturb and imperil the life of the Aryans. A class of bandits, known as Paṇis, used to steal their cattle. The class of people, known as *Vrātyas,* used to create obstructions to sacrifices.

Though the society of this age was mainly rural, yet there is mention of cities too. The principal means of livelihood was agriculture. Cattle-rearing was connected with it. Among the animals, the cow was the most important. There were artisans and craftsmen like the goldsmith, blacksmith etc. There was the cultivation of such fine arts as dance, music etc. Usury appears to have been a lucrative business.

Among the means of diversion were dicing, chariot-race, solution of riddles etc.

Material prosperity was desired by the people. Money was the most coveted thing. It is stated that money makes even an uncouth fellow look handsome. There are many references to trade and commerce.

One should not, however, form too high an opinion about the morals of the Vedic people. There are references to theft, robbery, abduction of women, adultery, murder, cheating, drinking etc.

The people of this age used to believe in the existence of ghosts and spirits, exorcism, the use of talismans for various objects, and in omens and portents. We find rites designed to bring others under control and cause harm to others. The *Atharva-veda* is a repository of such beliefs and practices. It contains many magical rites, charms for counteracting snake-venom etc. In this age, women occupied an exalted position in the society.

Epic Age

The popular epics, *Rāmāyaṇa* and *Mahābhārata,* originated as ballads perhaps before the discovery of scripts. Having been orally transmitted through ages these at last assumed written forms. Even after that many changes and interpolations crept into them. Thus, the society, revealed in the epics, does not represent a particular period, but a few centuries and a composite culture of the different regions.

The *Rāmāyaṇa* reveals two non-Aryan civilisations. One was pro-Aryan; it was the monkey-civilisation. The other, Rākṣasa, was anti-Aryan. The Rākṣasas were sensual, wild, violent and man-eaters.

We find references also to tribes like Niṣādas, Śabaras etc.

The Asuras (demons), hostile to Rākṣasas, used to indulge in various sinful practices.

Women, known, as Apsarases, used to disturb the penance of the ascetics.

In the *Mahābhārata* society, we find considerable influence of Vaiṣṇavism and Śāktism. Among them, devotion to the Vedic religion is rare. The Buddhists and Cārvākas also preached anti-Vedic doctrines. In this epic, many departures from the conventional Brāhmaṇical religion are noticeable. Polyandry, as in the case of Draupadī, is an instance in point.

Pauranic Age

The picture of the society in this age is multi-coloured. In the Purāṇas, we find records of the rites and customs of the various sects, e.g., Śaiva, Śākta, Vaiṣṇava etc. Various tribes and foreigners, outside the Aryan society, appear in these works. As instances may be mentioned the following : Kirāta, Hūṇa, Pulinda, Pukkasa, Ābhīra, Suhma, Yavana : Khaśa etc. Among them the Bhāgavata religion of the Purāṇa was very popular.

In this age, women and Śudras have been given freedom in many religious rites. They were debarred from performing many Vedic rites.

Among the Pāśupatas, certain practices, condemned in the society, were in vogue ; e.g. nakedness, living in a cemetery, erotic gestures, violation of the duties of castes and stages of life. They incorporated the foreigners into their sect. Of them, the Kāpālikas were the most repulsive. Wearing matted locks, garlands of bones, holding a blood-stained human head in hand, sacred thread made of hair—so fearful was their dress. They used to sacrifice human beings to gods and drink freely.

It appears that the impact of the political power of the Nandas, Mauryas, Andhras etc., dealt a heavy blow to the conventional Brāhmaṇical religion. They used to support Buddhism and Jainism to a very great extent.

The Purāṇas reveal that the influence of Tantra gradually became deep in the society. It spread mainly through the Vaiṣṇavas and Śāktas. *Madya* (wine), *Māṃsa* (meat), *matsya* (fish), *mudrā* (particular posture of hand) *maithuna* (sexual intercourse)—these were the foundations of Tāntric rites. In course of time, these led to various lecherous practices.

With the decadence of the Brāhmaṇical religion people embraced Buddhism in large numbers, and adopted Tāntric doctrines.

Age of Dharmasastra and Arthasastra

The *Mahābhārata* is regarded as a Dharmaśāstra. Many of its injunctions serve as guidelines of the society. For the regulation of the society, a separate class of literature, known as Smṛti or Dharmaśāstra, came to be composed. It is based, to a great extent, on the Veda, Purāṇa, Tantra and the epics. In criminology the role of this Śāstra will be discussed at the proper place.

Kauṭilya's *Arthaśāstra* deals elaborately with various aspects of the society, from the political point of view. In some cases, this work casts conventional morality to the winds if it serves the interest of the state.

Tantra

The origin of Tantra is shrouded in obscurity. It is given the status of Śruti (revealed literature) like the Veda. Tāntric ideas existed in a remote age, as is evident from the *Atharvaveda.*

The main difference between the conventional Śāstras and Tantra is that while the former lay stress on rigorous self-discipline, teach ascetic morality and emphasise rites and rituals, the latter advocates the attainment of liberation through the gratification of the natural impulses, of course within certain limits. Moreover, the rules and regulations about the castes and stages of life have been considerably relaxed in Tantra. Again, Tantra throws open the gates of religious performances to women and Śūdras who were denied the privilege of practising the Vedic religion as freely as men.

In the present work, crimes are the main subject of study and not the punishments. Incidentally some penal provisions have been discussed. The torture of the criminal for getting his confession was in vogue in ancient India as it is to-day. Kauṭilya himself provides for this (4.8). It is ordained that if there is a *prima facie* case, torture can be resorted to. But, it is prohibited in trifling cases as well as in the cases of a minor, old person, a diseased person, lunatic, an intoxicated person, one afflicted with hunger and thirst, one tired by a journey or due to over-eating, one suffering from indigestion, a weak person, a woman in the family way, a woman within one month of delivery. For women in general half the extent of torture, prescribed for men, is ordained. A Brahmin, versed in the Vedas, and an ascetic are exempted; in such cases, the truth is to be ascertained through spies.

Methods of torture were usually four; viz., beating with a stick for six times, seven lashes, hanging in two ways and pushing saline water into the nostrils with a pipe. Among the methods of torture, Kauṭilya mentions the following: getting the person concerned stung by scorpions, burning his finger-joints. If necessary, torture unto death is also prescribed (4. 4. 8).

Aiding an imprisoned criminal in his escape is punishable (Agnipurāṇa, 230. 3).

The writers of Smṛti have clearly ordained punishments. According to Manu (vii. 18). Daṇḍa (the punishing rod) rules over all, protects them, and keeps awake while others are asleep. In fact, Daṇḍa is Dharma itself.

Punishment should be inflicted after considering the time and place of occurrence, the criminals' capacity, learning etc. (vii. 16). The motive of the offender, his age, caste etc., were also to be considered. The repeated performance of a crime was regarded as constituting a greater offence.

It is laid down that if punishment is inflicted after proper consideration, the people become satisfied. Otherwise, the people are agitated; as a result, the kingdom perishes (vii. 19). If punishment is not inflicted, anarchy ensues, the strong oppress the weak and nobody has mastery or ownership over anything (vii. 20-21), the caste-rules are vitiated and all the Śāstric injunction reversed (vii. 24).

Though the law-givers of India were firm in punishing the wrong-doer, yet they never allowed the person wronged to take the law into his own hands. According to Yājñavalkya (ii. 16) and Nārada (i. 46-SBE, 33, 17), if the aggrieved person tries to realise compensation from the offender without informing the king, he will not only not get it but will also be liable to punishment. In all cases, however, this principle was not applicable. According to the above authorities, as also Bṛhaspati (Manu viii. 49, Nārada iv. 122, Bṛhaspati SBE, 33, p. 329, verse 54), in the case of recovery of debt, if the debtor admits the debt, the creditor can, with the help of a law-court, realise his dues by persuasion, ruse or even force. A decetful practice, allowed to a creditor in such a case, is that the creditor, borrowing some ornaments from the debtor for some festival, does not return the same. Again, a thing, given by the debtor to the creditor for delivery to another person, is appropriated by the latter. Among other methods is squatting by the creditor at the door of the debtor; it is something like *Dharṇā* of the present day. Another method is that the creditor, so long as his dues are not realised, ties his own wife, son or cows in the house of the debtor. Among forcible means is to keep the debtor as hostage in the house of the creditor or beating the debtor till the recovery of debt.

These methods are permissible when the debtor does not seek legal relief in respect of the principal, interest etc. But if even after his seeking legal relief, the creditor adopts any of the above methods, he will not only lose his claim but will also be liable to a fine equal to the amount claimed (Kātyāyana 589, Bṛhaspati SBE, 33, p. 331, verses 63-65). In case of the debtor's denial of the debt, the creditor has no other alternative than filing a suit.

In almost all ancient civilised countries, there was the principle of *lex talionis* or retaliation in the penal provisions. There was the practice of taking an eye for an eye, a tooth for a tooth. The revengeful attitude, underlying punishments, is clear in *Hammurabi's Code* of Babylon (C. 2200 A.D.), the *Twelve Tables* (table viii) of Rome and in the ancient Hebrew Law etc. Manu (viii. 280), Nārada (Pāruṣya, V. 25), Yājñavalkya (ii. 215) and *Viṣṇu-dharmasūtra* (V. 19) provide that a low-caste offender, committing an offence to a Brāhamṇa, shall have the very limb with which he committed it, cut off.

Another object of punishment was deterrent. The idea was that the punishment should be such as to create a sense of horror in the mind not only of the criminal, but also among the spectators ; this would prevent hte commission of such a crime. According to Manu's conception (vii. 25), the appearance of Daṇḍa is horrifying ; it is dark and red-eyed. Manu says (vii. 22), it is due to the fear of Daṇḍa that all the world becomes enjoyable. The very word Daṇḍa contains an element of fear. It is formed from the root *dam* denoting restraint. It is stated in the *Matsya-purāṇa* (225. 17), *Agni-purāṇa* (226. 16), Mahābhārata (Śānti XV. 8) etc., that Daṇḍa restrains (from root *dam*) the turbulent and punishes (from root *daṇḍ*) the wayward. It was to create a sense of horror among the people that, in ancient times, the executioners used to proclaim by beat of drums the fact that a criminal, sentenced to death, was being led to the place of execution. For instance, we may take the case of Cārudatta, condemned to death for the alleged murder of Vasantasenā, and led to the gallows in act x of the *Mṛcchakaṭika*. In the portion, following x. 11, the executioner proclaims that similar punishment will be inflicted on any other person committing a similar crime. According to Manu (ix. 288), a prison should be near the highway. Thus, the people, seeing the suffering of the imprisoned persons, would be deterred from committing a crime.

Another purpose of punishment was to restrain the offender. The idea was that if the criminal was kept confined, he would desist from anti-social activities at least for sometime. Banishment also serves this purpose. In this case, the offender would not get an opportunity of committing crimes for life.

It should not be supposed, however, that reformation as a purpose of punishment was totally unknown to the law-givers. The object of sublimation of the instinct of the offender is clear in the modes of expiation prescribed for certain criminals, besides physical punishment. The very word *prāyaścitta* means the performance of penance with the certain knowledge of washing off sin.

A historical study of the penal code of ancient India reveals that punishments were very severe in remote ages.

With the passage of time they become lighter. In the works of Yājñavalkya, Nārada, Bṛhaspati etc., the severity of punishments gradually diminished till at last these were reduced to mere pecuniary penalties. The *Yājñavalkya-smṛti* probably covered the first two centuries of the Christian era. The works of the other two were still later.

According to the *Viṣṇu-dharmasūtra* (v. I), death penalty is prescribed for offenders of all castes, except Brāhmaṇas, accused of grave sins. Manu, however, ordains (ix. 236) that death penalty will be inflicted only when the offender does not perform the prescribed expiation. The relevant verse of Manu is, perhaps, posterior to the above *Viṣṇu-dharmasūtra*.

In the *Arthaśāstra* corporal punishment is provided for various crimes besides theft. Such offences are, for instance, entrance into a fort without permission, gambling, cheating, climbing a royal vehicle, sale of human flesh etc. Corporal punishments were of various kinds ranging from the cutting of two fingers in a hand to capital punishment. The alternative to all physical punishments, excepting death, was fine (4. 10). It seems that, in remote ages, only physical punishments were ordained, and, with the advance of civilisation, these were replaced by fines.

From the testimony of Megasthenes (C. 1st. quarter of the 4th. cent. B.C.) it appears that for perjury the hands and feet of the offender used to be cut off. For causing loss of a limb to another, the offender had his corresponding limb chopped off. Besides, his hands also used to be cut off. For causing the loss of the hands and eyes of a craftsman the offender had to undergo death penalty. (Fragment XXVII, p. 71). The Chinese traveller, Fa-hien (405-11 A.D.), however, testifies to the absence of capital punishment. There is no mention of other physical punishments either. There was provision for fines varying with the gravity of the offence. For repeated sedition, the offender had his right hand cut off. (Legge, 1886, p. 43).

According to Manu (iv. 129), Yājñavalkya (i. 367), Vṛddhahārīta (vii. 195) etc., punishment is fourfold, viz., mild reproof, harsh reprimand, fine and physical punishment. It appears from Bṛhaspati (SBE, 33, p. 388) that the first two kinds of punishment were awarded by the Brahmin Chief Justice. The last two were within the power of the king himself, of course with the approval of the judge.

Physical punishments included imprisonment, beating, chaining the prisoner, torture, cutting of limbs and death. A method of punishment was to disgrace the offender before people by any of the following means : shaving the head, proclaiming the offender's crime by beat of drums after placing him before the people, taking the criminal round on the back of an ass, branding the criminal with marks indicating theft etc.

As regards physical punishment, different limbs are prescribed for the members of different castes. The following limbs of the non-Brahmins can be struck : secret spot, belly, tongue, hands, feet, eyes, nose, ear, any limb. According to some Smṛti writers, the following limbs also may be struck : neck, thumb, lips, hip, forehead etc. (Manu viii. 1251). For Brāhmaṇa offenders no corporal punishment is prescribed For grave crimes he may be banished.

It has been stated earlier that punishment should be inflicted after considering the time and place of the occurrence, the motive, capacity and learning etc., of the offender. In the present-day criminology, there are two opinions. According to one, the full responsibility of each individual rests in him alone. According to another, it is held that the reasons underlying a crime are many, e.g., physical, biological, social conditions, the mental state of the offender, his upbringing, environment etc. The law-makers of ancient India did not pay very great attention to these factors.

The extent of fines may range from one *Kākinī* to all wealth belonging to the offender ; the extent will be determined by the degree of the gravity of the offence.

Punishments varied in accordance with the age, sex and caste of the offender. Generally, the punishment for a woman was half that for a man. In the case of an offence, which required the offender to die, a woman had her limb concerned cut off (Kātyāyana 487).

As stated above, the motive etc., of the offender was to be considered before awarding punishment. The status of the offender was a factor to be examined. Kauṭilya lays stress on the circumstances under which a crime was committed. Medhātithi, commenting on Manu, and Vijñāneśvara, commentator of Yājñavalkya, say that, in all cases, the same punishment is not to be inflicted for a particular offence. Each case should be considered with insight. The sociological outlook played a great part in the matter. The Smṛti works, however, do not reveal a very analytical examination of the psychological factors behind a crime as in the present day.

In the *Daṇḍaviveka,* Vardhamāna says that the following factors are to be considered in the trial of an offender : the caste of the offender, the thing concerned, the extent of the loss and the gravity of the injury, determination of the monetary value of the loss or injury, the real sufferer, the age of the offender, his learning and capacity both physical and financial, his merit, fault including the class of the offence and the consideration whether it is the first offence or a repetition.

It may be added that, in ancient India, the attitude of the relevant royal department to the offender was more humane than that in the contemporary western countries[1].

It is not clear whether or not attempt at suicide was regarded as a crime. There is, however, no doubt that it was legal in certain cases. It is laid down in the *Gautamadharmasūtra* (xiv. 11) that there will be no impurity (*aśauca*) of the kinsmen if one commits suicide by any of these means : fast, use of a weapon, fire, poison, water, hanging and fall from a precipice. According to Atri (218-19), there will be a three-day impurity consequent upon the suicide of an octogenarian who is too weak to perform the acts of personal purification or is afflicted with an incurable disease. In the *Aparārka* commentary *on the Yājñavalkya-smṛti,* it is held, on the authority of Brahmagarbha, Gārgya etc., that the following persons are allowed to retire from the world and kill themselves by entering into water or fire or falling from a precipice: one attacked with a fatal malady, too old a person, one who is devoid of all desires of the senses and one who has performed all the duties. For such an action the person concerned incurs no sin; rather it is better than penance, because his life is useless. The *Aparārka* and the *Parāśara-mādhava* (I, Part II, p. 228) approve this practice on the authority of the *Agnipurāṇa.* According to Manu (vi. 31) and Yājñavalkya (iii. 55), a Vānaprastha, if a victim of an incurable disease or unable to perform his duties, is allowed to resort to this practice. A killer of a Brāhmaṇa could court death by facing the arrows of an archer or entering into fire. In course of time, such death came to be prohibited. In the *Bṛhannāradīya Purāṇa* (Pūrvārdha, Chap. 24. 16), it is included in *Kalivariyas.* In the *Śudhi-tattva* (p.p. 284-85, Jīvānanda's ed.), Raghunandan says that suicide by entering water etc., is prescribed only for Śūdras and not for the three higher castes.

---

[1] Vide H. E. Barnes : *The Study of Punishment,* New York, 1939.

On the authority of the Veda, some hold that for one, aspiring after heaven, attempt at suicide is prohibited. On Manu vi. 32 Medhātithi states that, in this Vedic context, suicide has not been categorically prohibited. In the *Vājasaneyī Saṇhitā* (40.3) suicide is forbidden. In explaining it some hold that it is forbidden for one who is ignorant of the soul. But, according to others, it is a taboo for all. Suicide is decried in the *Uttararāmacarita* (iv. 3) and the *Bṛhadāraṇyaka Upaniṣad* (iv. 4. 11). From the *Rājataraṅgiṇī* (vi. 1411), it appears that a royal officer was appointed to see if anybody commits suicide by fasting.

From the cases of approved suicide it seems that ideas similar to mercy-killing, advocated by some modern thinkers, existed in those far-off ages too.

Kauṭilya, however, denounces suicide as sinful. According to him, the body of a self-killer shall be dragged along the road by a Caṇḍāla, and no obsequial rites for him shall be performed. One, who tries to perform his obsequial rites, shall be regarded as degraded (4.7).

The Brāhmaṇas are exempted from death penalty. If a Brāhmaṇa commits a crime deserving capital punishment, his head shall be shaved, his forehead shall be branded with the sign indicating that crime and then he shall be made to ride an ass and banished (Vṛddha Hārīta, vii. 191). In the *Mitākṣarā* commentary on Yājñavalkya, ii. 270, the following signs are stated : female organ in the crime caused by the violation of the chastity of the wife of one's preceptor, wine-shop in the crime caused by drinking wine, a dog's leg in theft, a headless trunk in the murder of a Brāhmaṇa (Manu ix. 237. 240; *Viṣṇu-dharmasūtra* V. 4). The signs shall be put if the criminal does not perform the prescribed expiation. It may be pointed out that the practice of branding a criminal prevailed in ancient Rome, and had been in vogue in England till 1699 A.D. In England, the signs used were as follows: M for murder, T for theft etc.[1]

According to some Smṛti writers, instead of corporal punishment, the following punishments may be inflicted on a Brāhmaṇa : Confinement in a secret place, giving food just enough for subsistence, rearing of cows and other kinds of work not befitting a Brāhmaṇa.

According to the *Āpastamba-dharma-sūtra* (II. 10. 27. 16-17), death-penalty is prescribed for Śūdras for the following crimes : homicide, theft, forcible misappropriation of other person's land etc. For a Brāhmaṇa, however, it is ordained that his eyes shall be covered throughout his life.

All the writers, however, do not exempt a Brāhmaṇa from death-penalty. According to Kātyāyana (806), even a Brāhmaṇa should be sentenced to death for the following crimes : destruction of the foetus, theft of gold, killing a Brāhmaṇa woman with a sharp weapon, murder of a chaste woman. In the opinion of Kauṭilya (4. 11), for the following crimes a Brāhmaṇa should be killed by drowning : forcible entrance into the royal harem, inciting a tribe or an enemy against the king, sowing seeds of dissension or causing rebellion in the kingdom or the army. In the *Mṛcchakaṭika,* we find that the Brāhmaṇa Cārudatta was condemned to death for the alleged murder of

---

1. Vide Barnes, *Story of Punishment*, p. 62.

Vasantasenā. The Pāli Jātakas, too, testify to the capital punishment of Brāhmaṇas for grave crimes.[1]

As in modern times, in ancient India also there were differences of opinion about the propriety of death-penalty. According to some, it should not be inflicted under any circumstances. Some used to think that this punishment could be inflicted in very limited cases. The view of Kāmandaka (14. 16) and Śukra (4.1. 93) etc., is that capital punishment is not ordained even in the gravest of offences excepting rebellion against the king.

A dialogue between a king and his son, in the *Mahābhārata* (Śānti, Chap. 268), contains arguments for and against capital punishment; these remind one of up-to-date views of sociologists on the subject. According to the prince, even for grave offences the punishment should be light. If criminals like robbers are put to death, the innocent members of his family are subjected to great hardship. He further says that if the criminal surrenders himself and swears that he will not repeat the crime, then he should be let off after expiation. In reply to the son, the father says that, in ancient times, people were truthful, soft-hearted and polite. In those times, the simple utterance of 'fie' would make an offender desist from a crime. A mere reprimand was enough. But, in Kali-yuga, things are different. In this age, offenders have to be punished physically and even put to death; because some people are not deterred even by the fear of death.

There were various methods of killing an offender condemned to death; e.g., use of poison, trampling under the feet of an elephant, killing with a sharp weapon, burning, drowning, impalement. According to Manu (ix. 276), for house-breaking the criminal was impaled after cutting off his hands. In the opinion of Yājñavalya (ii. 273), impalement was prescribed for the following offences: keeping people as hostages, theft of elephants and horses, forcible murder etc. According to Vṛddhahārīta (vii. 202), this punishment was for the murder of a Brāhmaṇa, a woman, child, cow etc.

---

2. Vide Frick : *Social Organisation,* p. 212.

In accordance with the injunctions, contained in the *Daṇḍaviveka* (p. 20), death penalty may be twofold, viz. *Śuddha* (pure) and *Miśra* (mixed). The former is of two kinds, viz., *avicitra* in which the criminal is beheaded with a sword, and *citra* or *vicitra* in which the offender is killed by impalement or burning. In the *Miśra* type, the offender is put to death after cutting off his hands, feet or other limbs.

As in later times, and even at present witch-hunting was in vogue in ancient India too. According to Kauṭilya (4.4), those women who want to bring about clandestine illicit love with magical charms shall be banished. If they cause harm to anybody, they shall be similarly punished. It may be stated here that in England, even up to the earlier half of the eighteenth century, unfortunate old women were regarded as witches and were punished, even hanged to death.[1]

According to Manu (ix. 290) and the *Matsyapurāṇa* (227. 183), a fine of 200 *Paṇas* is prescribed for the following offences : use of charms for the destruction of others' lives, harmful magic, and rites for the appearance of ghosts and goblins. This testifies to the fact that, in those times, punishments were sometimes inflicted for superstitions and blind faith. How serious the cousequences of such superstitious beliefs could be can be inferred from the commentaries of Medhātithi and Kullūka equating a person, whose black magic has succeeded, with a murderer. Banishment was the punishment of one who tried to do harm to others by using charms with roots of trees (Bṛhaspati SBE. 33. p. 361, verse 16).

In all cases, the fines realised from offenders were not credited to the exchequer. Manu ordains (ix. 243) that the fines realised from those who were accused of grave crimes should be thrown into the water for God Varuṇa or given away to a learned and pious Brāhmaṇa. Manu (ix. 246-47) further provides that, in the kingdom of a king, who does not realise fines from a very wicked offender nor confiscates his property, people become long-lived, get a bumper harvest and child mortality does not take place.

---

[1] Vide Stephen, *History of Criminal Law of England*, vol. II, p. 435 ; Lea, *Superstition and Force* (1878), p. 425 ; Winternitz, Witchcraft in Ancient India, *Indian Antiquary*, vol. 28, p.p. 71-83.

As regards sexual life, ancient India considered *Kāma* (desire for wordly objects, particularly sex-enjoyment) as one of the ends of human life. While self-restraint has been frequently enjoined, the disciplined enjoyment of sex-life has been ordained as a bounden duty. In fact, one who does not marry is not a *gṛhastha* (householder) and is debarred from many rites and rituals. As the mother is the source of all creatures, so all the *āśramas* (stages of life) depend on *gārhasthya.* It was obligatory on the part of the parents to arrange the marriage of their daughters just when they were fit for sex-life. In Tantra sexual union is considered to be one of the means for reaching the goal. Prostitution appears to have been allowed under certain restrictions ever since Vedic times. Aberrations in sex-enjoyment and sexual perversities are reflected in Sanskrit literature.

CHAPTER II

CONCEPTS OF SIN AND EXPIATION

The word *Pāpa,* denoting sin, frequently occurs in Sanskrit works, particularly in those on *Smṛti.* Even in the present materialistic age, this word is often used by the conservative people who conform to ancient tradition. Generally speaking, *Pāpa* is that action which is supposed to enrage God, cause suffering in the next world as well as in this. In Smṛti works, *Pāpa* is stated to arise from the commission of what is prohibited and the omission of what is ordained. The consequence of *Pāpa* is suffered by the sinner himself. But, crime affects other people and is more anti-social. Herein lies the main point of difference between sin and crime. In the introduction we have stated that, in some cases, the line of demarcation between sin and crime is very thin. For example, the murder of a Brāhmaṇa is both a sin and a crime.

Pāpa is stated to produce a twofold effect. On the one hand, it leads the sinner to hell and, on the other, it renders a man unfit for social intercourse like eating, drinking and entering into matrimonial relations.

Prāyaścitta or expiation is ordained for washing off sins. There is difference of opinion as to whether or not both the above effects are destroyed by expiation. Yājñavalkya's declaration is (Prāyaścitta, v. 226) that expiation washes off sin committed unconsciously and that one who commits it consciously can be fit for social intercourse alone. Some, however, would insert 'a' before the word *vyavahārya* in Yājñavalkya's text, and explain the text to mean that the sin arising out of the conscious commission of sin is destroyed, but such a sinner loses eligibility for social intercourse.

The word *Prāyaścitta* is constituted by two components, viz. *Prāyas* and *citta,* the former meaning penance and the latter certain knowledge. Thus, the entire word means the performance of penance with the definite knowledge of its

CC-0. Agamnigam Digital Preservation Foundation, Chandigarh

washing off sin. The process, in which *prāyaścitta* removes sin, is likened to the process by which a piece of dirty cloth is cleaned by strong beating, application of alkaline substances and heating.

Expiation is possible in the following ways: proclaiming one's offence, repentence, penance and Vedic study. The gift of cows etc. is also a part of expiation. The expiation of grave sins may extend over twelve years. In certain cases, expiation unto death is ordained; e.g., for the sin accruing from the conscious murder of a Brāhmaṇa.

Various misdeeds have been classified in accordance with the gravity of the offence. The sins are chiefly divided as

Mahāpātaka—five kinds. Murder of a Brāhmaṇa, drinking of *surā* by a Brāhmaṇa, theft of gold belonging to a Brāhmaṇa, sexual intercourse with the preceptor's wife, association with any of the above.

Atipātaka—three kinds. Sexual union with one's mother, daughter or daughter-in-law; a woman's sexual intercourse with her son, father or father-in-law.

Anupātaka—35 kinds. A wicked act against the king, perjury, kidnapping a man, sexual union with a maiden, friend's wife, wife of a son other than *aurasa,* aunt, mother-in-law etc.

Upapātaka—49 kinds. Cow-killing, adultery, marriage of the younger brother before the elder, usury for a Brāhmaṇa etc.

CHAPTER III

WORKS ON CRIMES

Of the four ends of human life, recognised in ancient India, *dharma* occupies the first place. *Dharma* consists in acts which, enjoined in the Veda, are conducive to welfare. It is that which induces a man to perform beneficial acts. In the works on Smṛti, there are elaborate discussions about sins and expiation, crimes and punishments. The Smṛti literature is broadly divided into two classes, viz., old and new. The extant works on oldest Smṛti are called Dharmasūtras ; these are written in the aphoristic style. Of these, the principal works are those of Gautama, Baudhāyana, Āpastamba, Vaśiṣṭha and Viṣṇu. They originated roughly in the period between C. 600 and 400 B.C. Many other Dharmasūtras are referred to in various Smṛti digests and commentaries on old Smṛti works.

There is a large number of versified works on Dharmaśāstra. Traditionally these are twenty in number. In reality, however, the works in Sūtra style and in verse are much more namerous. Of the versified works, those of Manu and Yājñavalkya are the most noteworthy and authoritative. The extant *Manu-smṛti* perhaps passed through different stages of development in the period between 200 B.C. and 200 A.D.

The *Yājñavalkya-smṛti* probably originated in the first or second century A.D. or a little earlier. The Vyavahāra section of this work is the most important in legal matters. It contains descriptions of many crimes and corresponding punishments. It is at once the Civil and Criminal Procedure Codes and Penal Code, as well as the Law of Evidence of ancient India. Of the several commentaries on this work, Vijnāneśvara's *Mitākṣarā* (C. 11th. cent., latter part) is the most authoritative. The *Vyavahāra-mārkā* of the Bengali Jīmūtavāhana[1] deals with the procedure of fiiling suits and judicial proceedings.

---

[1] C. later than 11th. cent. According to some, later than 13th. cent. Raghunandana (16th. cent.) has mentioned him.

In matters relating to crimes, the *Nārada-smṛti* (C. 100-300 A.D.) deserves mention. The *Kātyāyana-smṛti* (C. earlier than 11th. cent.) also should be mentioned. The *Bṛhaspati-smṛti* (200-400 A. D.) is an important work in this connexion.

On the basis of old Smṛti many Smṛti digests came to be composed in the different regions of India. In these works, there are systematic discussions on various topics. The digest-makers have cited many authorities, and have attempted to reconcile the apparently conflicting texts. In the discussion on criminology, special mention is deserved by the *Daṇḍaviveka* of Vardhamāna (C. 15th. cent.-middle).

The *Ṣanmukha-kalpa,* mentioned in connexion with theft, contains information about the methods adopted by thieves.

Kauṭilya's *Arthaśāstra* (C. 4th. cent. B.C.) is an invaluable work on criminology. It contains some information not found in Smṛti works. It gives directions for some acts, for political purposes, which are condemned and even punishable in Smṛti.

The *Śukranīti-sāra* (acc. to some, 19th. cent.) and the *Kāmandakīya Nītisāra* (C. 3rd. or 4th. cent. A.D.) contain discussions on various crimes and punishments.

Besides Smṛti and *Arthaśāstra*, various crimes are referred to in the *Ṛgveda* (C. 2500 or 2000 A.D.), *Śatapatha* and some other Brāhmaṇas (in the period intervening between the *Ṛgveda* and the rise of Buddhism), *Aṣṭādhyāyī* of Pāṇini (C. 4th. cent. A.D.), *Mahābhāṣya* (C. 2nd. cent. B.C.), *Rāmāyaṇa* (present form C. 2nd. or 3rd. cent. A.D.), *Mahābhārata* (C. 4th. cent. A.D.), some Purāṇas[1], particularly the *Agni* etc.

In some prose, poetical and dramatic works also we get considerable information about crimes and criminals. Of the prose works, noteworthy are Bāṇabhaṭṭa's (earlier half of the seventh cent. A.D.) *Kādambarī* and *Harṣacarita,* Daṇḍin's (earlier half of 8th. cent. A.D.) *Daśakumāra-carita,* the

---

[1] The lower limit of the date of composition or compilation of early extant Puranas is the eleventh cent. A.D.

Vetālapañca-viṃśat[1], *Śuka-saptati*[2], Jaina *Kathākośa* of unknown date, *Divyāvadāna* (C. 1st. cent. A.D.), Vidyāpati's (14th.-15th. cent.) *Puruṣaparīkṣā*.

Of the poetical works, mention may be made of Kalhaṇa's *Rājataranginī* (middle of 11th. cent.), Bilhaṇa's *Caura-pañcāśikā* (bet. end of 11th. cent. and the first quarter of the 12th. cent.) etc.

Among the dramas, mention may be made of Bhāsa's[3] *Cārudatta*, the *Caturbhāṇī*[4], Kālidāsa's *Abhijñāna-śakuntala* (C. 4th. cent. A.D.) and Śūdraka's[5] *Mṛcchakaṭika*.

Some Pāli works contain information on the subject. Of these, the *Jātakas* are the most noteworthy. The following works are also relevant: *Vinayapiṭaka*, *Bhikṣuṇī-vibhaṅga*, *Dhammapada* and its commentary, *Pātimokkha* etc.

Some light is thrown by certain Prākrit works. The most noteworthy works in this connexion is the *Gāthā-saptaśatī* of Hāla (C. 1st. cent. A.D; according to some, earlier than 3rd. cent, A.D.). The *Karpūra-mañjarī* of Rājaśekhara (9th.-10th. cent.) is a valuable work. The *Jasahara-cariu* (10th. cent.) and *Karakaṇḍa-cariu* (11th. cent.), are also helpful.

---

[1] According to Hertel, Śivadāsa's version originated about 1487 A.D.

[2] The version by Cintamani Bhaṭṭa is not, perhaps, earlier than the 12th. cent.

[3] Variously assigned to periods ranging from the 5th. cent. to the 11th.

[4] Dates of composition perhaps ranging between the third and the fourth cent. B.C.

[5] Variously assigned to different periods between the second cent. B.C. and sixth. cent. A.D.

CHAPTER IV

JUDICIAL PROCEDURE

The word *vyavahāra* has been used to denote a judicial procedure. The word consists of the following components: *vi* means various, *ava* doubt, *hāra* removal. So, *Vyavahāra* means the removal of doubts about various doubtful matters. The word also denotes popular custom or usage. Legal transaction is also meant by it.

A judge is called *Prāḍvivāka.* He is one who at first asks questions (*prāḍ*) and then tries (*vivāka*).

In ancient India, not much fundamental difference is noticed in Civil and Criminal procedures. There are, however, differences in details. Bṛhaspati (C. 200-400 A.D.) appears to have, for the first time, distinguished between civil and criminal cases. He has divided the eighteen titles of law into two classes. The disputes, arising from monetary matters are 14 and those rooted in violence are 4. These four are abuse, too severe punishment or assault, murder and abduction of women, and are technically crimes.

According to Yājñavalkya (Vyavahāra i. 5), a case for trial arises when a person, wronged by another in a manner contrary to Smṛti rules or customs, lodges a complaint with the court.

A judicial proceeding passes through four stages; viz. *Bhāṣā* (plaint), *Kriyā* (proof), *Uttara* (reply) and *Nirṇaya* (judgment).

Proof or evidence is threefold, viz. document, possession and witness. People of good conduct and respectable social status can be witnesses. The following are unfit to be witnesses: Woman, minor, old man, gambler, drunkard, lunatic, *Abhiśastaka* (see glossary), actor, heretic, forgerer, deformed in body. Also disqualified are the following: an apostate, a friend of both the parties, one connected with the disputed

5210

money, one of the same profession as that of the plaintiff or defendant, enemy, thief, one who commits *Śāhasa* (see glossary), one known to be a liar, one deserted by friends. No disqualification stands in the way of one being a witness in the cases of the following crimes : adultery, theft, abuse, too severe punishment, *Sāhasa.*

Generally the number of witnesses is not less than three. But, a single pious person, if desired by both the parties, may be a witness.

In case of difference among witnesses, the evidence of the majority is acceptable. If two groups of equal number differ, the testimony of the one containing more qualified persons will be accepted. If both the groups consist of qualified persons, the evidence of the group consisting of men of higher qualification will be relied upon.

Perjury is punishable. But, if a true statement is likely to lead to the death penalty of a member of any one of the four castes then the witness is allowed to give false evidence, A simple expiatory rite will wash off the sin resulting from the false statement (Yājñavalkya Vyavahāra V. 83).

A few guiding principles in connexion with the administration of justice deserve mention. According to Yājñavalkya (ii. 2. 21), when there is a conflict between two texts, *nyāya* or usage will prevail. *Nyāya* is like equity of modern times.

Another principle is this. If there is conflict between the injunctions of Dharmaśāstra and Arthaśāstra, the former will prevail (Yājñavalkya ii. 2. 21). *Dharmaśāstra* teaches us that whose result is unseen, whereas Arthaśāstra teaches us what produces tangible result. Arthaśāstra does not mean the work of Kauṭilya, *Śukranīti* etc. It includes such texts of Dharmaśāstra which contain injunctions leading to tangible result. For example, Yājñavalkya ordains (i. 13. 352) that as the ecquisition of friends is better than that of gold and land, so attempts should be made to obtain the former. If a man is made to win a case, he will be a friend of the king, but his defeat will make him an enemy. In such a case, although fines realised from him will enrich the royal treasury, yet the king should adopt such means as will lead to his victory. Yājñavalkya himself elsewhere provides (ii. 1. 1) that a king should try a suit according to *Dharma*, being free from anger and avarice. In view of these injunctions, the king should follow the precepts of Dharmaśāstra and not those of *Arthaśāstra.*

Ordinarily an accused cannot file a counter-complaint against the complainant so long as the case against him is not disposed of (Yājñavalkya ii. 2. 1). But, a counter-complaint is allowed in cases relating to abuse, too severe punishment and *Sāhasa* (Ibid. ii. 2. 10).

There were some unions which had the power to try cases relating to their members. These unions were called *Pūga, Śreṇī, Kula* etc.

The king will conduct a judicial proceeding being accompanied by learned, truthful and pious Brāhmaṇas. If the king, due to pre-occupations with royal duties, be unable to be present then he will appoint a virtuous Brāhmaṇa as his representative.

In some inscriptions, grants and literary works the word *Daṇḍapāśika* occurs.[1] This word perhaps stood for the royal officer having the power of punishing culprits in a criminal case. The word *Daṇḍapāśika* occurs also in the *Pañcatantra* (2) and *Kathāsaritsāgara* (4). In the latter, it means guard. The word *Daṇḍa-bhogika* is probably synonymous with *Daṇḍapāśika.* The term *Dāṇḍika* has perhaps been used in this sense[2].

The term *Dāśāparādhika*[3] perhaps denoted a royal officer who used to examine ten kinds of crimes. In the cases of these crimes, the king probably initiated a judicial proceeding

---

[1] Palitana plate of Dharasena II (Gupta era 252). E.I. XI, p. 83. Valabhi grant of Dharasena (Do), I.A. 15, p. 187. Laksmaṇasena's Grant, E.I., XII, p. 9. *Yasastilaka-campū*, I, p. 50.

[2] Chamba Inscription No. 15, p. 166.

[3] Nalanda plate of Devapala, E.I. XVII, p. 32. Bhagalpur plate of Nārāyaṇapala, I.A. 15, p. 304, p. 306.

suo moto. According to Nārada[1], the ten crimes are : violation of royal orders, murder of women, confusion of castes, adultery, theft, a women's pregnancy caused by a person other than her husband, abuse and defamation, vulgarity, too severe punishment and abortion.

Pradeṣṭṛ (Arthaśāstra i. 12, ii. 35. 7, iv. 1. 1), according to Kane, means Police Magistrate. He will be where *Gopa* and *Sthānika* reside. A person at the head of five or ten villages is called *Gopa* (Arthaśāstra ii. 35. 7). *Sthānika* is the head of an urban ward or district. The main duties of the *Pradeṣṭṛ* is to help the *Samāhartā* (Collector) in the detection and elimination of anti-social elements. The *Gopa* and *Sthānika* will help the *Pradeṣṭṛ* in apprehending robbers and thieves. It is the duty of the *Pradeṣṭṛ* to apprehend and try criminals in his own area. He can punish the offenders. The trial by the *Pradeṣṭṛ* was not like a regular sessions trial in the court.

The evidences, stated earlier, are human. In the absence of these, ordeals (*divya*) are ordained. Yājñāvalkya speaks (Vyavahāra vii. 95) of the following five ordeals : balance, fire, water, poison and sheath. As a specimen, the process of the fire-ordeal is given below.

Nine circles are to be drawn on the ground. The accused, with a hot iron ball in hand, will slowly pass from one circle to another till he reaches the eighth one. From there he will throw the ball into the ninth circle. If, even after this, there be no burn-mark on his palm, he will be declared innocent.

In a dispute relating to debt, there is provision for sureties (Yājñavalkya, Vyavahāra iii. 53). They are appointed for three purposes, viz. production of the accused in the court, creation of confidence and the actual payment.

As regards *grāmadoṣa* or offences committed by villagers, Manu provides (vii. 115-117) that each village shall have a head. There will be a head over ten villages. Over a unit of twenty villages there will be one head. One hundred villages will have one. One thousand villages will be under one man. Of them, each following shall be more powerful than the preceding one in the hierarchy. If a village headman be unable to right the wrong done by a villager, he will bring it to the notice of the head of ten villages. On failure the latter will put up the matter before the head of twenty villages, and so on.

---

[1] Quoted in the *Smṛticandrika*, ii, p. 28, *Parāśara-mādhava*, iii, p. 44.

A sane and salutary principle was that a decision should not be arrived at by merely consulting Śāstras ; a trial without reason causes loss of *dharma*. In such a case, a thief may be taken as honest and an honest person as a thief[1]. As an instance, the story of Māṇḍavya[2] has been cited. A version of the legend is as follows. The thieves, having kept stolen goods in the house of Māṇḍavya, concealed themselves. Being asked by royal officers as to the way by which the thieves escaped Māṇḍavya kept silent. The thieves were caught and, along with Māṇḍavya, were put to death.

The above legend reminds one of that connected with sage Kapila. The horse for the Aśvamedha sacrifice of king Sagara was stolen at the instigation of Indra and kept in the hermitage of Kapila in the nether region. The sons of Sagara, while searching for the horse, found it out there. They took the sage as the thief.

From the foregoing account of the judicial procedure and the procedure laid down by Bṛhaspati it is clear that the law-givers of ancient times had subtle intellect and a correct outlook. It can be asserted that the judicial procedure of those times was not much inferior to that in modern times.

---

[1] Vide Bṛhaspati quoted in the *Aparārka* comm. on the *Yājñavalkkya-smṛti*, ii. 1. Nārada also gives a similar direction (*Nārada Smṛti*) *Vyavahāra-mātṛka*, (i. 42).

[2] Vide *Mahābhārata*, Anuśāsana, 18. 46-50 ; Adi 107 ; *Arthaśāstra* (iv. 8. 12-modified).

CHAPTER V

OFFENCES RELATING TO MOVABLE PROPERTIES

Theft and Robbery

Movable properties include money, grains and various other things. Of the offences of this class, theft is the most prominent.

That theft was of various kinds is clear from the words denoting thief. The main words are : *Stena, taskara* (lit. doer of that despicable thing which cannot be uttered), *pāṭaccara, granthi-bhedaka* or *-chedaka* (sort of pick pocket), *aikāgārika, moṣaka, pratirodhī, parāskandī, malimluca* (one who does a dirty thing), *dasyu* etc.

Theft consists in the unlawful destruction of one's right over a thing and the creation of the thief's own right. In a gift or purchase another person's right is not illegally destroyed. Herein lies the difference between theft and those modes of acquisition.

In social life, small reciprocal sacrifice of self-interest becomes necessary. Gautama (*Dharmasūtra*, 12. 25), Manu (viii. 339), Yājñavalkya (ii. 166) etc. hold that a member of any of the three higher castes does not commit any offence by taking the following things of others without their permission : grass, fuel, fodder, flowers for religious rites, trees, fruits of trees in an open space.

According to the *Mahābhārata* (Śānti 165-11-13), Manu (xi. 16-18), Yājñavalkya (iii. 43) etc., a Brāhmaṇa or any other person, starving for three days, may take foodgrains from any place without committing any offence. But even in such a condition a member of a lower caste is not allowed to take foodgrains belonging to a member of a higher caste without permission. According to Vyāsa, quoted in the *Smṛticandrikā* (i. p. 175), a man in distress for want of food could steal food without being liable to theft. He could take the food at first from a man of the lower caste, then from one of the same caste and finally from one of a higher caste. Manu (viii. 341) and Kātyāyana (822) provide that a traveller, whose stock of food has been depleted, was allowed to take the following articles with impunity: two sugarcanes, two roots, two cucumbers or melons, five mangoes or pomegranates, one handful of dates, rice, wheat etc.

In Smṛti works, theft has been divided into many classes. According to Manu (ix. 256), thieves are of two kinds, viz. *prakāśa* (open) and *aprakāśa* (secret). The following belong to the former class: traders deceiving buyers by short weight, gambler, quack, one who bribes a royal officer, prostitute, deceitful mediator, maker of false articles, those earning livelihood by the knowledge of omens and portents, magic, palmistry etc., perjurer. To the latter class belong those who move about with instruments for cutting holes into houses and whose abodes are unknown. According to Vyāsa, quoted in the *Smṛticandrikā* (ii. p. 318), they are of nine kinds: One who taking advantage of a man's inadvertence relieves him of money, house-breaker, one who misappropriates the things of a traveller, a pickpocket, kidnapper of a man or woman, stealer of cows, horses and other animals.

In accordance with the value of articles, theft is threefold; trifling (e.g. theft of earthen-ware, seat, wood, leather, grass, cooked rice etc.); middling (e.g. theft of cloth other than silk, amimals excepting cows and bulls, metals other than gold, rice, wheat etc.; serious (e.g. theft of gold, jewels, silken cloth, kidnapping men or women, cattle, elephant, horse, money belonging to a Brāhmaṇa or a temple). According to Yājñavalkya (ii. 273), a stealer of elephants or horses should be impaled.

It was an offence to aid a thief with food etc. and to keep stolen properties.

It was the duty of a class of officers to arrest thieves. Kauṭilya ordains (H. 13) that on officer, called *corarajjuka,* shall be responsible for making good the loss due to theft. According to Kātyāyana, quoted in the *Aparārka,* it is the duty of an officer, intended for the purpose, to recover the stolen articles from the thief and restore the same to the owner. If the thief cannot be traced, it is the responsibility of that officer to pay the price of the stolen articles to the owner.

In case of theft in a village, if there is no sign of the exit of the thief the responsibility of paying damages to the owner rests on the village headman. If theft is committed in a forest or a grazing ground, and the thief is not arrested, the compensation will be paid by the owner of that forest or land. If theft is committed beyond the inhabited area of a village but within the village boundary and there be no sign of the exit of the thief, all the village together shall pay the compensation. It is like the punitive tax of modern times.

Nobody is responsible for paying compensation for the theft of one's articles by ones' servants.

According to Kauṭilya (4. 10), besides fines imposed on a thief, his thumb and forefinger would be cut off. For theft, committed for the second time, the fine shall be heavier and all the fingers of the thief shall be cut off. For the offence in the third time the fine shall be still heavier and the thief's right hand shall be cut off. Heavier fine in ordained for the fourth time besides death-penalty.

The stealing tendency of the golsmith is notorious in all ages. It is said that he steals the gold from the ornament even of his mother. The same tendency is noticeable in ancient India too. According to Manu (ix. 292), the goldsmith is the worst of all cheats. If his cheating is detected all his limbs shall be cut to pieces.

On the art of theft the only available work is the *Sanmukha-kalpa*. The means of keeping oneself invisible, fording a marshy land, controlling others etc. are laid down in it.

Besides theft, there are references to snatching money on streets, house-breaking, dacoity etc. A class of dacoits was called *Mānava*. According to Meyer[1], they were originally

---

[1] Vide *Uber das Wesen* etc., pp. 339-40.

CC-0. Agamnigam Digital Preservation Foundation, Chandigarh

uncultured Brāhmaṇas who used to steal, commit adultery and practised magic.

In house-breaking, the investigating officer should enquire whether it was committed by insiders or outsiders or by both in collusion. Various indications of it are stated in the *Arthaśāstra* (4. 6. 16-19).

In a case of theft, the alleged thief is to be interrogated before the owner of the stolen articles and the witnesses. If a man appears from circumstantial evidence to be a thief, but denies the charge, various methods of torture are to be resorted to for getting his confession.

Non-recovery of debts

It will be dealt with under offences relating to litigation.

Though money is a movable property yet we shall deal with it in a separate chapter, because of its special importance.

CHAPTER VI

OFFENCE RELATING TO MONEY

Non-recovery of Debts

The practice of lending and borrowing money and other things has been in vogue perhaps ever since the orgin of the human species. Shakespeare's prohibition that one should neither be a lender nor a borrower is a pious one and not respected in real life. The practice of lending money etc. provided ample opportunities for disputes. The lender and the borrower have mostly been at loggerheads.

When a debt is repaid partially, the creditor should give a receipt ; otherwise he shall forfeit his claim to the remainder.

Non-repayment of a debt was at once regarded as a sin and a crime. In such a case, there was provision for realising the creditor's due by selling off the debtor's property.

If no time-limit is specified for repayment, a debt should be repaid as soon as the creditor demands it. Even if the interest, being equal to the principal, ceases the debt should be repaid (Bṛhaspati, SBE, 33, p. 328, verse 47). If the creditor, out of greed, does not accept repayment offered by the debtor, the latter may hand over the money to a third person ; from that time on no further interest will accrue (Yājñavalkya ii. 44).

According to Kātyāyana (580-84), on failure of the debtor to repay the debt, the creditor may try to realise it by keeping the debtor confined. But a cultivator and royal officer cannot be kept confined at the time of their work (iii. 11). In the opinion of Manu (viii. 177), Yājñavalkya (ii. 43) etc. a debtor, unable to repay debt, shall do so in kind by working in the house of a creditor of the same or higher caste.

A creditor, trying to recover his dues independently of a law-court, when the debtor denies the debt or seeks legal

CC-0. Agamnigam Digital Preservation Foundation, Chandigarh

relief, shall forfeit his claim and be liable to fine (Kātyāyana 589, Bṛhaspati, SBE, 33, p. 331, verses 63-65). The creditor may try to realise his dues either directly or through another person. The gimmicks of the creditor and the methods of harassing the debtor are as follows :

> to borrow ornaments from the debtor on a festive occasion and not to return the same; not to deliver a thing, entrusted by the debtor, to the proper person; to call the debtor to the creditor's house and then to beat him or keep him confined; keeping the members of the creditor's family and his cattle tied in the house of the debtor and the fasting creditor's squatting at the former's door.

If the debtor, after admission of his debt, and the creditor's adopting a lawful means of recovery, lodges a complaint with the law-court, he shall be fined (Manu viii. 176, Yāj. ii. 40).

Surety

Suretyship is a very old practice. A surety was called *pratibhū*. According to Yāj. (ii. 53), sureties are appointed for three purposes, viz. production of the accused, creation of confidence in the other party, and payment. If a surety fails to produce the debtor at the appointed place and time, he will be liable to pay the promised amount. Yāj. (ii. 53) holds that all sureties will be liable for damages unless the original person fails to do his duty due to an action of God or of the king.

If, in the absence of the debtor, a surety has to repay the debt due to pressure from the creditor or oppression, the debtor shall be liable to pay him double the amount (Yāj. ii. 56). In the absence of pressure or torture, the debtor shall be liable to pay the exact amount paid by the surety. In the case of the following, the debtor shall have to give three, four or eight times : grains, cloth, liquid substance (Yāj. ii. 57).

Usury

The greed of man for money is insatiable. It is a part of human nature to augment self-interest at the expense of others who are helpless and weak. A debtor borrows money when in distress. Taking advantage of this the creditor charges an exorbitant rate of interest. To curb this tendency the Debt Settlement Board was created. An object of the present cooperative societies is to check too high rates of interest.

The same motive made Smṛti writers and Kauṭilya formulate rules that the interest cannot exceed the principal. Kauṭilya (iii. 11), Manu (viii. 151), Yāj. (ii. 39), Kātyāyana (509) etc. are unanimous on this point. In modern times, this principle is designated Damdupat.

When there is a condition of interest in kind, there is difference of opinion about the number or quantity of the thing to be given as interest. According to *Gautama-dharmasūtra* (12. 33) and Manu (viii. 151), the things to be realised by the creditor shall never exceed five times of what was given; it applies to grains, fruits, wool, beasts of burden, ghee, milk etc. According to some, the creditor's dues may be eight times or, in some cases, two times.

There is divergence of opinion about the rate of interest. According to Kauṭilya (3. 11), the lawful rate is $1^1/_4$% per month. But, in reality or in business it shall be 5% per month. But those who move through forests shall pay 10% per month and the maritime traders 20%. The high rate in the case of the last two is due to greater risk to their life and property caused by robbers, shipwreck etc. They may even die so that the debt will never be repaid.

Those who realise a rate higher than the prescribed one or instigate the creditor to do so shall be fined. Even a witness to such a transaction shall pay half the fine prescribed for the offender.

CHAPTER VII

OFFENCES RELATING TO IMMOVABLE PROPERTIES

Ancient Indian economy was mainly agricultural. So, a cultivable land was regarded as valuable. It was a punishable offence to cause any harm to such a land or its produce.

According to Yāj. (ii. 158), if a person, taking a land on payment of an advance, does not properly carry on cultivation shall be liable to give the owner the quantity of grains that would have grown by proper cultivation, besides paying fine and restoring the land to the owner.

In connexion with *ātatāyins,* we have noticed that one who misappropriates a land is an *ātatāyin.* The cause is not far to seek. One, who depends on a land for foodgrains, will naturally be distressed for want of the land.

Setu is twofold ; that which is dug and that which prevents water from flowing out. According to Yāj. (ii. 156) and Nārada (14. 17), if a *setu* is made in an adjoining land, the owner of the latter cannot protest even if he has to sustain a little loss.

Disputes over lands and boundaries were common. Kātyayana (732) has stated six causes of land-disputes : claim for more land, complaint that a person has right to a lesser area of land than that of the land possessed by him, claim for a part of the land, denial of another person's claim for a part of the land, possession of what was not in possession, boundary. All these come under boundary dispute.

According to Nārada, quoted in the *Mitākṣarā* on Yāj. ii. 150, boundaries are of five kinds : *dhvajinī* (indicated by trees like flagstaffs), *matsyinī* (marked by rivers or tanks full of fish), *naidhānī* (marked by things kept underground), *bhayavarjitā* (marked by the mutual consent of the parties), and that marked by royal order.

CC-0. Agamnigam Digital Preservation Foundation, Chandigarh

Sāmanta was among those who used to determine boundaries. According to Manu (viii. 263), Yāj. (ii. 153) etc. a *Sāmanta* resorting to falsehood in a dispute is punishable. According to Manu (viii. 257), other lying witnesses too are punishable. Kātyāyana holds (750) that a witness who, though knowing everything, does not give evidence is a greater offender.

Residence

In a city, one has to abide by municipal rules while building a house. In a civilised society, one cannot cause harm to the interest and health of the neighbours by arbitrarily building houses, drains etc. In rural areas, too, there are some rules and regulations. Thinkers of ancient India too were not silent or indifferent about this matter.

Nobody can deprive anyone of the customary privileges in respect of a house, water, bazar etc. Lawful protest is, of course, permissible if somebody wants new privileges.

If a drain in one's house causes a little inconvenience to another, no objection should be raised by the latter if the drain has been working for a long time ; this is the opinion of Bṛhaspati (SBE, 33, p. 34, verse 25). After the construction of a house, one should not make such windows, verandahs, drains etc. as may cause annoyance or inconvenience to others. Bṛhaspati further states that latrines should not be made too near a neighbour's premises.

Road Tank Etc

A highway is variously called *saṃsaraṇa, catuṣpatha, rājapatha* etc. Along such a road pass men and animals. According to Kauṭilya and some others, the passing of excretions is prohibited on such a road. Fines are prescribed for parking carts on such a road, planting saplings and keeping a thing causing obstruction.

Though rendering a road unclean is punishable, yet it is not so in the case of the following persons :

A sick person, a pregnant woman, a child etc.

According to Kātyāyana (758-59) the pollution of a tank by washing dirty clothes is a punishable offence.

Trees

The ethical sense of the ancient Indians did not allow offence to trees and plants too. They were conscious that they also have the capacity for feeling pleasure and pain. Moreover, the sentiment of the person who plants trees etc. was also to be respected. In consideration of utility, sanctity etc. Manu (ii. 227-29) and others have prescribed fines for the destroyer of of trees, branches, fruits, flowers etc.

According to the *Mitākṣarā* (Yāj. ii. 212), the offence arising out of damage to trees comes under *Daṇḍapāruṣya*.

CHAPTER VIII

MISCELLANEOUS OFFENCES

Shirking Responsibilities

As in modern times, shirking responsibilities and deceitful work were present in ancient times also. It is the practice of some to refrain from work after taking money for doing it. In education such a tendency is very harmful, because, due to it a man's life is not properly formed and the result is social harm.

In the *Matsyapurāṇa* (227. 6) it is laid down that one, who, after accepting money, does not impart education in general or in crafts, shall be liable to pay as fine the entire amount received by him.

Exploitation of Popular Beliefs

Some people used to dupe the gullible who believed in magical practices. In England, witchcraft was regarded as a punishable offence up to the eighteenth century A.D. According to Kauṭilya (4.4), the king should gather, through spies, information about those who declare themselves expert in bringing about clandestine union in love-affairs through charms and magic rites. Such people and the witches deserve banishment. According to Manu (ix. 290), fine is to be imposed on those using charms and spells for destroying others' lives and taking recourse to harmful sorcery. Bṛhaspati provides (SBE, 33, p. 361, verse 16) for the banishment of those using charms with roots of trees and plants.

Sedition

In all times and climes sedition was a fearful thing for kings. In the *Arthaśāstra,* it is stated that, when the king is away in an expedition, there is the possibility of rebellion against him in his absence. This rebellion may be of three kinds : *Abhyantra-kopa* ; in it the minister, priest, commander-in-chief and the prince conspire.

Antara-mātya-kopa—in it there is a plot by the royal officers of the palace.

Bāhyakopa—it occurs at the instigation of an officer of an area outside the kingdom.

If there is apprehension of insurrection, the king will take with himself whom he suspects, when he goes out on an expedition if the suspected person be of an internal region. If he belongs to an external area, then the king will take the members of his family (9.3. 9-33).

The king should take care that an officer of the capital connot revolt in collusion with an officer of the external region.

The various motives and methods of rebellion are laid down in the *Arthaśāstra* (9. 3. 36-41).

Even a prince can be a rebel. If there is such an apprehension, then, according to some, the king should try to curb him. Some advocate the killing of the son by the king at his very birth. Kauṭilya, however, opines that the king should arrange for the good training of the prince from his very boyhood so that he cannot revolt in future (1. 17. 22-39).

Deceitful Transaction

Kauṭilya has dealt with the deceitful practices (4. 1., 4. 2). The trial of these offences was perhaps not done in law-courts. It seems, such offenders used to be tried and punished summarily.

Sahasa

It has been defined in the introduction. According to Yāj. (2. 232124), the following seven offences are equivalent to *Sāhasa* : breaking a sealed house, causing loss to a neighbour and a *Kulika* (a person of the offender's same family), deserting one's parents, son brother or sister who are not degraded, sexual union with a widow, the conscious defilement of a person by a Caṇḍāla, making counterfit coins, fraud in weights and measures, administering bad medicines to a royal servant or anybody else.

According to Manu (viii. 332), Yāj. (ii. 230) etc. a violent crime in defiance of royal servants or in the presence of guards and the people is called *Sāhasa*. The word is a derivative of *Sahas* meaning force. *Sāhasa* differs from theft in that the latter is committed secretly and without force. According to Nārada (17. 2) and Bṛhaspati (SBE, 33, p. 359, verse 1), it is of four kinds : homicide, theft, rape of another's wife and abuse. They have divided *Sāhasa* into three classes, viz. ordinary (destruction, abuse, trampling fruits, roots, water, agricultural implements etc.), middling (destruction of garments, food, drink and domestic utensils), gravest (killing with a weapon or poison, rape of another's wife and any act causing pain to a creature).

In the narrower sense, *Sāhasa* includes homicide, rape and robbery.

According to Bṛhaspati (SBE, 33, p. 363, verse 29), forcible homicide is punishable with death. According to Manu (ix. 241), a Brāhmin culprit shall be banished.

Bribery

According to Kātyāyana (650-51), the realisation of money by the following means belongs to the category of bribes : threatening to supply false information to prove that a man is a thief, adulterer etc., pointing to a dishonest man, spread of false rumour. The difference from the law in modern India is that the person offering bribe is not punishable ; the person through whom it is offered may be fined. A royal servant, accepting bribe, is punishable but not any other person.

Non-payment of Wages

An employer not paying the promised wages to the employed becomes punishable. (Kauṭilya 3 : 13). He cannot employ another man within the time-limit for which he employs one. The person employed shall also not work for another within the same limit. Otherwise, both will be guilty.

If the master does not pay the dues to a servant even after his doing the work, he shall be liable to pay the amount and a fine.

Non-performance of Work

If a hired servant, even after receiving wages, does not do the stipulated work, he shall return the money to the employer and pay double the amount as fine (Yāj. ii. 193). There is difference of opinion about the amount of fine. According to Kauṭilya (3. 14), besides paying fine, he will be compelled to do the stipulated work. There will be no offence if the person does not do the work due to sickness etc.

If a person promising to do a work, in exchange of a specified amount, goes away without completing it he will get no wage. Again, if the employer dismisses him without any fault before the specified time, he shall be liable to pay the entire promised amount.

According to Kātyāyana (660), the master dismissing a sick or tired servant in a journey will be punished.

According to Yāj. (ii. 197); Nārada (ix. 9) etc. if a person, while carrying a thing, damages it he shall pay compensation to the owner.

Non-returan of Hired Things

If an elephant or horse etc. being hired, is not returned in time the hire up to the date of actual return must be paid. (Kātyāyana 662-63.) The same rule applies to hired houses and markets.

Master and Servant

According to Bṛhaspati (SBE, 33, p. 346, verse 17), if a servant steals something for the interest of the master, the master will be liable to damages. In the case of animal-keepers, if an animal causes damage to crops the keeper himself will be responsible. (Gautama S. xii. 17). But Manu (viii. 243) and Yāj. (ii. 161) hold that the master is responsible for the loss due to the fault of the keeper.

If the slave of one serves another without his permission, the former can get him back (Nārada viii. 40).

Prostitutes

In the *Matsyapurāṇa* (227. 144-46), it is laid down that if a prostitute, even after receiving the fees, does not satisfy the giver of money, then she shall have to pay twice the amount to him and equivalent amount as fine to the king. One who enjoys a prostitute, but does not pay the fee shall have to pay a fine.

Non-service

If a person, promising to serve another, does not do so, he is punishable. In the age of D.S. (e.g. Āpastamba ii. 11. 28, Gautama Xii. 16-17), two kinds of people seem to have done so—a cultivator's labourer and the keeper of cows and sheep etc. In the *Nārada-smṛti* (viii. 2, 3), five kinds of such people are mentioned : labourers of four types and the slave. The four types are pupil, disciple, hired servant, supervisor of hired labourers.

Work is of two kinds, conducive to welfare and not conducive to welfare. The former is to be done by the labourers. It is the duty of slaves to cleanse doors, roads etc., shampooing the master.

Trainer and Trainee

If a trainee leaves the trainer without his permission, then he shall be compelled to stay up to the specified time, and punished with lashes or confinement. But, if the trainer without teaching him the promised subject, makes him do other work, then the trainee may leave him and the trainer shall be fined.

CHAPTER IX

OFFENCES RELATING TO PURCHASE AND SALE

Sometimes a dishonest trader does not, out of greed for greater profit, deliver a sold article to the purchaser. According to Yāj. (ii. 254) and others, under such circumstances the seller is bound to give the thing to the buyer along with the profit obtained in the intervening period between the sale and acceptance by the buyer. According to some, such a seller is also liable to fine.

After sale if the seller does not give a thing to the buyer even after the latter's demand, the seller will be responsible for any damage or loss of the thing concerned.

Punishable also is the buyer if he does not accept it after sale. But, if the thing concerned has some defect or is spoiled due to an act of God or the king the buyer is not responsible.

If after the sale of an article, the seller or buyer has repentance, then it can be returned within ten days of the sale. After this period, neither party shall have any right. Different authorities have fixed different time-limits for the return of different articles. Threedays are fixed in case of certain articles. The limit is very short in the case of a perishable article.

If an article, sold to one, is again sold to another or if it is sold after suppressing a defect then the seller shall have to pay double the price to the buyer and an equivalent fine to the king (e.g. *Parāśaramādhava* iii. p. 370). There is no provision for returning the article if the buyer purchases it being aware of its defect.

The above rules are applicable after the payment of the price by the buyer. Neither party has any responsibility if there is mere contract and no financial transaction unless, however, there is a compulsive provision in the contract.

If after the payment of earnest money, the sale does not take place due to the fault of the seller he shall pay double the earnest money to the buyer (*Parāśaramādhava* iii. p. 370).

According to Kātyāyana (692), the buyer is bound to return a thing sold by the following: a lunatic, drunkard, one dependent on another, idiot etc.

A thing purchased as a result of coercion or at a price much lower than the fair price, has also to be returned.

Avakraya is a punishable offence. According to some, it means the sale of an article by one with whom it is deposited. According to others, it means the purchase of an article without price or at a partial price.

In the *Rājataraṅginī* (vi. 41), a fraudulent transaction is stated. In a deed of sale relating to a house, the purchaser bribed the scribe to include a well not intended by the seller. For this he was banished and his property was confiscated and given to the deceived seller.

Sale of an article by one who is not its owner is punishable. Such articles are: an open deposit, a sealed deposit, a thing meant for another, a stolen property, a thing borrowed on a festive occasion, the lost article of an unknown person; the clandestine sale of these is punishable (e.g. Nārada vii. 1), Bṛhaspati (SBE, 33, p. 335, verse 2).

Yāj. (ii. 168, Nārada vii. 2) ordain that the real owner can recover the article from the buyer. The buyer is punishable if he does not purchase it in the open market. The buyer is punishable like a thief if he purchases it from any one of the following: slave, one who has no right over the master's article, a rogue or hooligan. The same punishment is prescribed for one who purchases it for a very low price at abnormal times like midnight (Yāj. ii. 168, Manu viii. 202 etc. If he purchases it in the open market or through ignorance, he has no liability; only the thing has to be restored to the owner. The purchaser has no fault if he discloses the name of the seller and points out the original seller (Manu viii. 4); otherwise, he will be punished like a thief (Nārada vii. 4). In such a case, the owner will sue the original buyer (Manu viii. 201. Yāj. ii. 170). If the person sued loses the case, he shall pay the price to the buyer and fine to the king.

A member of the owner's family, selling an article without his knowledge, shall be fined. But, an unrelated person doing so will be punished like a thief (Manu viii. 198). This will be the punishment if the sale is effected through ignorance or consciously.

If a person purchases a thing, in presence of traders and within the knowledge of royal servants, from one whose residence is unknown and if the seller dies after the sale, then the owner of the thing in question will take it back from the purchaser at half the price. The principle is that it is an offence to purchase a thing from one whose residence is unknown. The fault of the real owner is that he did not take proper precaution about his property. (Kātyāyana 621-23, Bṛhaspati, SBE, 33, p. 331-36, verses 7-9).

CHAPTER X

OFFENCES RELATING TO MORTGAGE

By mortgage (*ādhi*) is meant a land or an article kept, as security, with the creditor at the time of borrowing money.

Mortage is twofold, viz. *gopya* (to be protected or guarded) and *bhogya* (to be enjoyed). As a rule, the mortgagee is liable to pay damages for a mortagage spoilt excepting through the natural causes or act of the king.

The creditor is to restore the mortgage to the owner after realising his dues—this is the usual and natural rule. But, in some cases, a creditor would not part with it out of greed. Such a mortgagee is to be punished like a thief (Yāj. ii. 62).

Sub-mortgage, i.e. the mortgage of a property already mortgaged, is not allowed by some. According to Bharadvāja, if a creditor does so without the permission of the mortgagor, he would lose right over his money. Kullūka on Manu, viii. 143 says that sub-mortgage is not an offence as Manu has not prohibited it. Medhatithi thinks that, according to Manu, the sub-mortgage of a *bhogya ādhi* is forbidden.

If the debtor does not repay his debt even after the expiry of the time-limit of the mortgage, he will lose right over it. (*Mitākṣarā* on Yāj. ii. 28). The same rule applies when the debt is not liquidated even after the interest becomes equal to the principal. In the case of *bhogya ādhi,* the debtor or his heir can get it released after paying off the debt any time; there is no provision about loss of right over it.

If the debtor fails to repay the debt even after the interest becomes equal to the principal or after the expiry of the time-limit, the creditor can sell off the mortgage in presence of a relative of the debtor or of a witness (Yāj. ii. 63).

A kind of mortgage is called *caritrabandhaka.* In it, relying on the honesty of the creditor, the debtor borrows a small amount after mortgaging a highly valuable property. Again, depending on the honesty of the debtor the creditor advances a big amount after keeping a mortgage of small value. In such a mortgage, there is no question of the owner's loss of right over the mortgage.

Whatever the lapse of time after the advance of the loan, the creditor shall not get more than double the principal.

Lending money depending merely on the reliability of the debtor is also called *caritrabandhaka.* In this case, there is no mortgage so that there is no question of loss of right over it.

In case the debtor, at the time of mortgaging the property, promises to pay double the principal (including the interest), that is called *Satyaṃkāra.* In it also the debtor has no loss of right however much delay he may make in repayment.

If the creditor is abroad or dead, the debtor can get his mortgage released after repaying the money to a member of the creditor's family (Yāj. ii. 62). As an alternative, the mortgagor can get the value of the mortgage assessed according to the current rate and keep it as it is; thenceforward no further interest will accrue. If, in the meantime, the mortagage is spoilt the creditor shall pay its price to the debtor.

CHAPTER XI

OFFENCES RELATING TO PARTNERSHIP BUSINESS

Such business was in vogue in ancient India too. On the one hand, in a joint business financial matters become easy and there is facility of management. On the other, where many people work together disputes are possible especially in financial matters. There were rules and regulations for the safeguard of partnership business.

Such a business was not only in connexion with trade. Actors, singers and craftsmen also sometimes used to work jointly. Even priests used to work together subject to certain conditions.

Every partner should look after the interest of the business in matters relating to sale, purchase etc. According to Yāj. (ii. 260), Nārada (vi. 5) etc. he, through whose inadvertence, arbitrary action etc. loss is sustained, shall be liable to make good the loss. If a partner is dishonest or deceitful, other partners may expel him without giving him any profit.

If a thing is missing, all together shall try to get it back through an unknown man after paying him something. One who tries to do so alone shall be deprived of profit (*Vivādaratnākara,* p. 123).

In the Dharmasūtras, there is no provision for partnership business. It seems, such a business was not very much in vogue in those days. Even if it was in vogue at the time of Manu, it was perhaps not very common. He has extended the rule about the joint work of the sacrificial priests to partnership business (viii. 211). Yāj, however, says (ii. 263) that the rules about partnership business apply also to priests, cultivators, craftsmen etc. It seems that, at his time, such business was popular.

CHAPTER XII

OFFENCES RELATING TO BREACH OF CONTRACT

Breach of contract is called *Saṃvid-vyatikrama* or *Samayasyānapākarma*. Though breach of contract was punishable, yet this offence was often committed through greed or inadvertence.

Contracts were of various kinds. Contracts were made, after swearing, with a villager, a person of a district, merchants or other men.

The breach of rules of unions, called *Śreṇi, Pūga, Gaṇa* etc. also belonged to this category. *Śreṇī* denotes the union of craftsmen like weavers. *Pūga* is the union of horsemen and elephant-riders. *Gaṇa,* according to the *Mitākṣarā*, means the union of armed people of the same profession. According to Kātyāyana (680), it means the union of Brāhmaṇas.

Naigama is according to the *Bālakrīḍā* commentary on Yāj. ii. 192, the union of merchants etc. According to *Aparārka,* it means people of different classes who go abroad together for trade.

Vrāta, according to Kātyāyana, means a group of people holding various weapons. The *Mahābhāṣya* on Pāṇini 5.2.21 explains the union of men of different castes and different vocations. They used to earn livelihood by physical power.

According to Manu (viii. 218-19), the punishment for breach of contract through greed is exile.

A few conventional practices relating to different unions are briefly as follows: One who violates them shall be punished. The inhabitants of a village agree that if the people of a neighbouring village do any wrong to them they would in a body resist the latter. Anybody not abiding by the agreement shall be an offender.

The rules of a *Śreṇī* require that the sale of some commodities will be confined to some people only. One violating this rule will be punishable. The members of a *Pūga* and *Vrāta* must fight together, otherwise they will be punishable. The people belonging to a *Gaṇa* must get the ears of their children pierced at a fixed time.

The order of *Pākhaṇḍins* or heretical Buddhists is well-known. One belonging to the Order must abide by its rules.

The king will see to it that the rules of all unions are observed irrespective of caste and creed. He will punish one who violates the rules. According to *Yāj.* (ii. 188-92), the king will form a committee to enforce the rules of *Gaṇa* etc. It will be called *Kārya-cintaka.* Its members will be pions, free from greed and the king will not cause obstruction to their work.

If a member of a union, deputed for some work, comes across a thing he shall make it over to the Head ; otherwise he shall have to pay a fine eleven times the value of the thing.

According to Kātyāyana (674-75), one, who misappropriates the money borrowed for the union or spends it for personal benefit, will be punished.

If there is a quarrel among the members of a union, the persons concerned shall be fined (Manu viii. 220). According to Kātyāyana (671), a member causing obstruction to a reasonable work, to one in the expression of independent opinion or speaking unjustly shall be punished. Yāj. (ii. 187) ordains that if a member misappropriates the property of a union or violates a conventional practice he will be banished. According to the *Mitākṣarā* (Yāj. ii. 1. 87), punishment depends on the gravity of the offence and the capacity of the offender.

Though breach of contract was an offence, yet we do not find any provision for the specific performance of a contract as it exists in modern law.

CHAPTER XIII

OFFENCES AFFECTING HUMAN BODY

INJURY

It means too harsh and severe punishment. According to Kauṭilya (3. 19), it includes touching the body, threatening to beat others, actual beating. Nārada includes (18. 4) in it the striking of others with hands, feet, weapons or by any other means or defiling a person or causing trouble to one by besmearing his body with ashes. According to Yāj. (ii. 212) the striking of animals and trees also comes under it.

According to Kātyāyana (798) and Bṛhaspati (SBE, 33, p. 363, verse 31) if many people together beat a person to death, then the assailant who violently strikes at the most vital part of the body shall be punished like a murderer.

According to Nārada (18. 5. 6) it is of three kinds, viz. ordinary, middling and gravest. In the first kind, there is preparation for beating, in the second there is attack without hesitation and in the third actual striking. It may again be of three types according to the low, middling and high price of the target of the attack.

The general rule is that if a person deals a counterblow, the first striker or one who initiates the quarrel will suffer a heavier punishment. If the initiator cannot be ascertained, both the parties will have equal punishment. An offender of a low class like Caṇḍāla, who strikes a respectable person like the preceptor, shall have corporal punishment and not fine.

According to Kātyāyana (786), there will be difference of punishment in accordance with the difference of castes. The lower the caste of the offender the lesser is the degree of punishment. According to Manu (viii. 286), the degrce of punishment will vary in accordance with the social status of the injured person, the value of animal involved and the nature of the injury.

Yāj. (ii. 214) ordains that no offender shall be punished if he acts through ignorance or under the influence of wine. But, Kauṭilya holds that, under such circumstances, the punishment will be half the usual.

Murder

According to the *Mitākṣarā* commentary on Yāj. (iii. 227) and the *Agnipurāṇa* (173. 1), murder consists in an act leading to the loss of life. That is murder as a result of which a man loses his life at once or at some other time without any other reason.

Murderers are of five kinds. Śūlapāṇi holds in the *Prāyaścitta-viveka* (Jīvānanda, p. 47) that the following five are murderers: One who actually kills another, one who induces another to kill, one who approves the killing, one who aids and abets the murderer, one who is the root cause of the murder. The abettor is one who obstructs a fleeing enemy or sets free the murderer restraned by another. The matter is discussed in the *Mitākṣarā* on Yāj. iii. 227. In a verse of the *Agnipurāṇa* (173. 3) it is laid down that, of several colleagues, all of whom hold weapons, if one proves to be the murderer all others will be similarly treated.

Kātyāyana (832-34) and Bṛhaspati (SBE, p. 364, verse 32) hold that the following accused shall suffer punishment in accordance with their capacity and the gravity of their offences: One who starts a violent act, abettor, one who determines the *modus operandi*, one who gives the offender food, arms or shelter, one who incites the offender to fight or beat, one who gives advice for causing the disappearance of the body of the murdered person, one who instigates the offender by other means, one who discovers faults of the person to be killed, one who supports the offence, one who though capable does not try to prevent the offence. All of them are responsible for the offence concerned. The *Āpastamba-dharmsūtra* (ii. 11. 29. 1) deals with the subject. According to Bṛhaspati, the punishment of the initiator and the abettor shall be half that for the murderer.

According to Āpastamba, cited above, those who induce, permit and actually commit the crime all are entitled to the appropriate result in the other world. One who actually commits the act has, of course, the greatest responsibility. According to this logic, he who induces and he who permits are regarded as killers.

In the *Prāyaścitta-viveka* (p. 57), an authority has been cited to show that a person who, by reproof, beating, theft of money etc., arouses such anger in another as causes the latter's death, will be regarded as a murderer. If a person dies for the land of his kinsman, friend or wife then those for whose sake he dies will be regarded as murderers. This applies to a Brāhmaṇa who dies. The rule about other castes is not clear.

In murder the motive is the main thing. If the action of one, not intent on murder, causes the death of another the former does not become a murderer. According to Yāj. (iii. 284), a person is not guilty of murder if he causes death to another while doing good to him. Saṃvarta also holds (138 Ānandāśrama) that if a person dies after taking medicine, oily substances, food etc. then the one who gives him these things is not guilty. A man is not guilty if his son, pupil or wife dies as a result of punishment inflicted on them (*Prāyaścitta-viveka,* p. 58, *Bhaviṣyapurāṇa* text ; *Agnipurāṇa* 173. 5).

Ātatāyins have been defined in the Introduction. One killing an *ātatāyin* for self-defence is not guilty of murder (Yāj. ii. 21 *Mitākṣarā*). There is difference of opiniond about the propriety of killing an *ātatāyin* for self-defence. Many hold that an *ātatāyin,* who may be even a Brāhmaṇa versed in the Veda, may be killed with impunity. (Manu viii. 350-51, *Viṣṇu-dharmasūtra* 189-90, *Matsya-purāṇa* 227. 115-17. *Mahābhārata*, Śānti 22. 5-6, 34. 17, 19. Udyoga 178, 51-52. According to some, a Brāhmaṇa, even if an *ātatāyin* is not to be killed (e.g. Sumantu quoted in the *Mitākṣarā* on Yāj. ii. 21. Kātyāyana quoted in the *Smṛticandrikā*, Vyavahāra, p. 315). According to Bṛhaspati, quoted in the above work, if such a Brāhmaṇa, versed in the Veda, deserves murder one will acquire merit by refraining from it.

In the *Gītā,* seeing relatives on the other side, Arjuna told Kṛṣṇa that, by killing these *ātatāyins*, he would incur sin.

Some hold that the *Gītā* being a part of the *Mahābhārata*, which is a Kāvya, the above remark is not in conformity with the injuction of Smṛti.

By adducing various arguments the *Mitākṣarā* on Yāj. ii. 21 concludes that, if in obstructing a Brāhmaṇa *ātatāyin*, his death is caused unconsciously then there will be no crime. Such a Brāmaṇa should not be consciously killed. Medhātithi's opinion (on Manu viii. 350-51) is similar. Kullūka on Manu viii. 350 holds that the killing of such a Brāhmaṇa is not a crime if there be no other means of escaping from him. Thus, according to him and Aparārka on Yāj. iii. 227, such a Brāhmaṇa can be killed with impunity as a desperate measure. In the *Vyavadhāra-mayūkha* (p. 242) Brāhmaṇa-murder is included among *Kalivarjyas* (practices to be avoided in Koli Age) so that even an *ātatāyin* Brāhmaṇa should not be killed in this Age. It is noticeable that, with the augmentation of Brāhmaṇical authority, the person of a Brāhmaṇa came to be regarded as sacrosanct.

In all cases of murder, the gravity of offence is not the same. The gravest offence is the murder of a Brāhmaṇa. This attitude is already noticeable in the Vedic age (*Taittirīya Saṃhitā* ii. 5. 1. 2, 5, v. 3. 12. 1-2 ; *Śatapatha Brāhmaṇa* 13. 3. 1. 1. ; *Kāṭhaka Saṃhitā* 31. 7). The destruction of *Bhrūṇa* is regarded as a greater offence than Brāhmaṇa murder. Bhrūṇa means a learned Brāhmaṇa or foetus whose sex is not known[1].

According to the *Āpastamba-dharmasūtra* (i. 9. 24. 6-9) the murder of an *Ātreyī* or pregnant woman is tantamount to the murder of a Brāhmaṇa. According to Manu (xi. 87), Yāj. (iii. 251, and Āpastamba, referred to above, the murder of a Kṣatriya and Vaiśya, versed in the Veda and initiated to *Soma-yajña,* is also similar. Generally in murder a woman, Kṣatriya, Vaiśya or Śūdra belong to the same category.

Brāhmaṇa-murder is a grave sin. But, the murder of a person of the lower caste by a Brāhmaṇa is a minor offence ; the murder of the above kinds of Kṣatriya and Vaiśya is, however, a grave offence.

---

[1] See Kane, *Hist of Dharmaśāstra*, II, p. 148 ; III. 612.

According to Bṛhaspati, quoted in the *Udvāha-tattva* of Raghunandana, an adulterous wife may be killed with impunity by the husband. According to the *Gautama-dharmasūtra* (23. 14), *Mahābhārata*, Śānti (165. 64) and Manu viii. 371), the punishment of a woman involved in adultery with a man of a lower caste is that the king will cause her flesh to be devoured by dogs.

Suicide has been dealt with in connexion with punishment.

In the *Arthaśāstra* (IV), there is some information about the investigation of murder. There is provision for post-mortem examination in the case of *āśumṛtaka* or accidental death. Such a death aroused suspicion about suicide or murder. The method of examination was as follows: At first, oil is to be rubbed on the dead body so that marks of injury become prominent. Different kinds of marks, due to various causes, are stated. There is swelling of the hands and feet of one who is strangled to death. His excretions come out, eyes bulge out and there are marks of strangulation on his neck. Besides these marks, if the hands and thighs of the dead person contract, death by hanging can be inferred. Closed eyes, bitten tongue, swollen belly—these indicate drowning. The investigator must be very careful; because one who is murdered often looks like one who has committed suicide. In case of suspected poisoning, the last food of the person concerned has to be examined or a part of his heart has to be thrown into fire. If there is cracking sound or rainbow colour, then poisoning is indicated. The post-mortem examination is entrusted to a royal servant. He seems to have been like the present-day Coroner. If poisoning is confirmed, a servant who has been harshly rebuked or beaten should be suspected. If the wife of the dead person has a paramour, she also is to be suspected. Anybody having an eye on the property of the deceased is also an object of suspicion.

The main motives of murder are as follows: temptation on the wife or property of the deceased, rivalry in business, victory in a lawsuit.

If murder is established, for spotting the murderer, those with whom the murdered person mixed for the last time and with whom he had any business just before death have to be found out.

If suicide is proved, investigation of its cause is to be made.

CHAPTER XIV

ABUSE

According to Nārada (18. 1), it consists in harsh speech towards a person causing his sorrow or insult by loudly speaking ill of his country, caste, family etc. According to Kātyāyana (768), abuse means a derogatory sound in presence of another, cough, imitation of what is denounced by others or speaking such a thing.

Nārada divides (18. 2-3) abuse into three classes ; viz. *niṣṭhura* (harshly calling one fool or rogue), *aślīla* (an utterance indicating bad taste or disgrace), *tīvra* (abusing others as murderer of a Brāhmaṇa or drunkard) ; each succeeding one is graver than the preceding one.

According to Bṛhaspati (SBE, 33, p. 355, verse 2-4), abuse is threefold ; viz. *Sādhāraṇa* (speaking ill of one's country, caste or family, accusing one as a sinner without stating any fault), *madhyama* (one saying to another that sexual intercourse with his or her sister will be performed by the former calling others prepetrators of minor sins), *uttama* (accusing another of having taken prohibited food or drink, calling him the perpetrator of a grave sin).

Punishment is determined by the gravity of the offence committed by one who abuses and one who is abused. For abusing a Brāhmaṇa, a member of a lower caste is fined. The lower the caste of the offender, the heavier is the punishment. For a Śūdra offender physical punishment is ordained. For abusing a member of any other caste, the fine of Brāhmaṇa is smaller. The lower the caste of the person abused the punishment is lighter. Specific punishment is fixed for this offence towards a man of the same caste ; it will be doubled if abuse involves the name of one's mother or sister.

From the *Smṛticandrikā* and *Modanaratna* it appears that, by the twelfth century, the differentiation of castes and of kinds of abuse was done away with.

Slight punishment is ordained for describing a thief or deformed person as such (Manu viii. 274). For falsely calling a person thief the punishment is double.

According to Kauṭilya (3 18), it is punishable for a person to describe a really defective or deformed man as beautiful. For example, if a man is blind he may be jocosely described as possessed of beautiful eyes.

If a person, accused of abuse, declares that he has done so through ignorance and shall not repeat it, his punishment will be half (Kātyāyana 775).

A royal servant, abusing the king, shall have his tongue cut off and property confiscated (Yāj. ii. 302, Narada 18. 30) ! no differentiation of castes is made in this connexion. According to *Āpastamba-dharmasūtra* (ii. 10 27-14) a Śūdra shall have his tongue cut off for abusing a member of any of the higher castes.

CHAPTER XV

STRI-SAMGRAHANA

Adultery[1], incest and rape are included in it. Force, cheating and unrestrained passion—any of these three factors may lead to *Strī-saṃgrahaṇa.* The forcible act takes place when there is enjoyment of a woman in a lonely spot against her will or when she is intoxicated, insane or when she shouts. Cheating takes place when a passionate man brings a woman to his house by a ruse or after overpowering her by *Dhattura* etc. or bringing her under control by charms etc. Urged by unrestrained passion, a man may commit *Strī-saṃgrahaṇa* which may be trifling, medium and grave. The first may be by casting a sidelong glance at a woman, smiling at her, sending a go-between, touching the ornaments or garments of the woman concerned. The second may be by sending to a woman flowers, cosmetics, incense, food, cloth etc. and secret conversation. In the third kind, there are lying in the same bed, blandishment, kiss, embrace etc.

Forcible sexual union was regarded as the gravest offence. If the woman was of the same caste as that of the offender the property of the latter was confiscated and after cutting off his genital organ and testicles, he was taken round on the back of an ass. Half the punishment was prescribed if the caste of the woman was lower than that of the offender. But, if the woman was of a higher caste, the offender was sentenced to death and was to lose right over his property. This is according to Bṛhaspati (SBE, 33, p. 366, verse 10). There was provision for fine also. According to Kātyāyana, in such case, the punishment of the woman was half. For an offence punishable with death, a woman had to have a limb cut off.

According to Nārada (xv. 73-75), the punishment for adultery with the step-mother, maternal aunt, mother-in-law, paternal aunt, daughter-in-law, preceptor's wife, a shelter-seeking woman, queen, female mendicant is the cutting off of the offender's organ and, according to some, death.

---

[1] Regarded as crime in Indian Penal Code, Section 407.

The enjoyment of a prostitute against her will was prohibited. One violating this rule was fined.

The gravity of the offence of *Strī-saṃgrahaṇa* depended on the caste of the woman, whether she was married or unmarried and whether it was secret or open.

It should be stated that the punishment for this offence was very severe in ancient times, but became considerably lighter in later times. For example, the punishment of an adulterous woman is, according to *Gautama-dharmasūtra* (xxiii. 14-15) and Manu (viii. 371), to get her devoured by a dog. But, Yāj (ii. 286) reduced it to the cutting off of her ears and nose. According to the *Āpastamba-dharmasūtra* (ii. 10. 26. 20-21), for adultery with a married woman the punishment will be the cutting of the organ and testicles of the offender. For adultery with an unmarried woman, he will lose right over the property. But, according to Yāj. (ii. 288), Manu (vii.866/and Nārada (xv. 72), there is no fault in the enjoyment of a maiden of the same caste in accordance with her hint. On the contrary, the king will try to bring about the marriage of the parties. According to Manu (viii. 365), a maiden has no fault if she has sexual union with a man of a higher caste. But, union with a man of the lower caste is an offence.

Though adultery was regarded as a grave offence, yet, in certain cases, there appears to have been a liberal outlook in Purāṇas and Smṛti. Nārada states (xii. 61) that a chaste woman incurs no blame by willingly approaching another man if she is forsaken by her husband who is impotent or is attacked with consumption.

The formulators of Śāstra have a keen and sympathetic eye on the sex-life of a woman. Yāj. (i. 55) and Nārada (xii. 8-19) prescribe methods for ascertaining the sexual vigour of the proposed bridegroom before marriage. One whose semen floats in water and urine is frothy is virile; otherwise one is impotent. Nārada gives a list of impotent persons, and prescribes methods for curing them where possible. Incidentally he mentions those who can only perform intercourse in the mouth of his partner or can enjoy other women but not their own wives. This matter is dealt with also in the *Arthaśāstra* (305. 11) and *Agnipurāṇa* (227. 15-16).

CHAPTER XVI

OFFENCES AFFECTING ANIMALS

In ancient India, animals could not be treated in any and every way. A civilised society does not allow people to be cruel even to animals. At present also cruelty to animals is a punishable offence. An animal may cause annoyance or harm. Everybody has the right to prevent it, but not in a cruel manner. Let us see what the attitude of ancient Indians was to animals.

Fine was prescribed for maiming or killing an animal; the amount varied in accordance with the gravity of the offence. For example, according to Manu (viii. 296-98) and Yāj. (ii. 225-26) a person was liable to fine for injuring or killing a cow, elephant, horse or even an animal of small value like the goat.

It should be stated that there was no fault in killing an animal for sacrifice or for food.

If a cow caused a little damage in a festival or *Śrāddha*, its master was not to blame. According to *Parāśaramādhava* (iii. p. 385), no blame attached to the owner of a cow damaging crops in a field situated on the outskirts of a village. But, if crops were destroyed in a field which was fenced off, the owner was liable to fine.

A carter will be punishable like a thief if, as a result of driving his cart rashly, a pedestrian is killed (Manu viii. 295). If death is caused to a big animal like cow, horse, elephant, camel the punishment will be half. A still lesser punishment is ordained if the victim is a small animal.

If a horse, dog or monkey injures anybody, their owner is not responsible unless he sets them afainst the person concerned (Nārada—Pāruṣya, 32, SBE, 33, p. 212).

According to the *Mitākṣarā* (on Yāj. ii. 212), the offence of injuring an animal comes under *Darṇḍa-pāruṣya* (too severe punishment).

CHAPTER XVII

OFFENCES AGAINST THE KING

According to modern conception, a crime is, on the one hand, harmful to society and the affected person and, on the other, an offence against the State.

Certain offences, however, are directly prejudical to the interest of the king, and do not affect the public or an individual. Sedition, incitement of sedition, defalcation of government funds : these are harmful to the State. For a knowledge of these offences it is necessary to employ spies ; because it is not possible for the king personally to know what is happening in every nook and corner of the vast kingdom.

The king's employees, particularly high functionaries, may be dissatisfied with the king for various reasons. They provide a fertile field for sowing the seeds of rebellion against the king. It becomes easy to create disaffection between them and the king Such royal officers are called *Kṛtya* or seducible. They may be of four kinds (*Arthasāstra* I. 14. 2-5) :

(1) *Kruddha* (angry)—they are those the amelioration of whose condition the king promised but failed to act. For example, those who have not been promoted or have been demoted.

(2) *Bhīta* (terrified)—those who have done something wrong, amassed money by unfair means or have incurred the displeasure of the king.

(3) *Lubdha* (greedy)—those who have become destitute or addicted to vice or are miserly.

(4) *Mānī* (self-conceited)—those who, due to too much of conceit, are not satisfied with their own condition. They have a tendency to act rashly.

It is a duty of the spies to trace such people (I. 13. 22-23). Kauṭilya advises the king to win over such people in the enemy's kingdom so that the latter may be weakened and the conquest of his territory becomes easy (I. 14. 6-12).

As a result of various misdeeds of the royal officers, the king and his subjects may be harmed (ii. 8. 4-21, 9.32-34, iv. 52. 24). Defalcation of government funds was common in those times as at present. Obstruction to the realisation or desposit of revenue, use of government property on interest or for personal benefit, giving the state less valuable things instead of more valuable ones etc.—these are some of the ways how an officer can cheat the king. Kauṭilya has stated forty different methods of embezzlement of funds by royal officers. There is mentioned also of removing valuable things from a mine or factory, theft of articles and money etc., from the government fund or treasury. Among other offences are mentioned dishonesty of a judge or an administrator, misconduct of the Chief of prisons.

A class of offenders is called *Gūdhājīvin* by Kauṭilya, their livelihood is clandestine and, therefore, suspicious. Among them are high-ranking officers, e.g. judge, *Pradeṣṭṛ*, *Grāmakūṭa* and the Superintendents of different departments. They can accept bribes taking advantage of their status or can realise money by putting pressure on the people.

Besides royal officers, the following also belong to the above class: those who agree to give false evidence for money, practise magical rites, make counterfeit coins, sell drink or poison that causes one to faint.

Banishment is the punishment of such persons. One can escape banishment by paying fine in accordance with the gravity of the offence.

The investigation of such crimes is the duty of the *Samāhartā*[1]. It can be done in two ways. The persons affected by the dishonest practices of the officers, may be invited to disclose their grievances or spies may be engaged. If a spy succeeds in spotting the culprit, he may be promised a reward of one-sixth of the money involved in the crime (II. 8.24-32). Officers investigating such offences appear to have been engaged in every government office. As a safeguard against corrupt practices of royal officers, it is provided that every government office shall have some heads who will be frequently transferred.

---

[1] Collector General. The word occurs in the following works and inscrtptions: *Arthasāstra* (I. 12. 2. 6), Taimmīya *Mīmaṃsāsūtra* (12. 1. 28)—*Śabara-bhāṣya*; Plate of Mahābhavagupta (E. I. VIII. p. 141; XI. p. 94).

An officer, designated as *Rāṣṭrapāla,* is mentioned in the *Arthaśāstra* (V. 3. 7). His duty was, perhaps, to some extent, like that of the *Samāhartā*.

Heavy punishment is ordained for embezzlement and other corrupt practices. In certain cases, it is ordained that the officer concerned shall be disgraced in various ways. For example, he should be taken round the town or village after besmearing his body with cowdung and ashes and proclaiming his offence. Or, his head will be shaved and he should be driven by throwing brickbats at him. In certain grave offences, death-penalty and killing by torture is provided (IV. 9.2-2.7). These modes of punishment are deterrent.

CHAPTER XVIII

OFFENCES RELATING TO GAMBLING AND ANIMAL-BETTING

Gambling with dice (*dyūta*) and animal-betting (*samāhvaya*) have been in vogue since Vedic times. In a Ṛgvedic hymn (X. 34) there is description of the wretched condition of a man who lost his all, even his wife, as a result of gambling The *Mahābhārata* furnishes a very glaring example of the privations suffered by Pāṇḍavas defeated in dice-playing. Though this game is condemned by Manu (vii. 47, 50) as a vice, yet of its wide prevalence there is no doubt whatsoever.

Animal-betting (*samāhvaya*) has also been a popular practice since remote ages. Horse-race of the present day is a sort of this practice.

Manu strongly decries (ix. 221-22, 224-26) gambling with dice. His direction is that corporal punishment should be inflicted on one who takes to it, and induces others to do so. According to him, a gambler should be banished ; because he deceives people of good conduct.

The injunctions of Yāj. (ii. 203) and Kauṭilya (3. 20) are realistic. According to them, at the central spot of a place gambling may be allowed under the supervision of the government ; thus the thief can be spotted easily by the spies.

One who conducted gambling was called *Sabhika*. According to Nārada (xix. 8). a gambler is not guilty if he takes to this in an open space after paying the king his dues.

If the defeated party does not pay the winner his dues, the *Sabhika* will try to realise it. He having failed the king will intervene if, of course, the aggrieved has paid the kings dues (Yāj. ii. 2. 1). According to Yāj. (ii. 202) and Nārada (xix. 617). One conducting the business without the permission of the king or resorting to deceitful practices shall be punissed. The punishment is branding his forehead with the mark of a dog's leg and banishment. According to Nārada (xix. 6), the exiled man shall wear a garland of dice round his neck.

According to Yāj. (ii. 203), the rules and regulations about gambling apply to animal-betting too. In the *Arthaśāstra* (3. 20. 1-12) there is provision of gambling under State control. The State is to provide a place for gambling as well as the dice and other requisities. There is mention of law-suits relating to gambling because deceitful practices were common.

CHAPTER XIX

OFFENCES RELATING TO LITIGATION

Litigation has always been a complicated matter, the complication being added to by dishonest lawyers, selfish agents, perjurers etc. A law-court is the best place for earning money by taking advantage of the helplessness of people. In the *Mṛcchakaṭika* Śūdraka has aptly characterised a court as infested with sharks and crocodiles.

The wise ancient Indians did not support the idea of a person, unconnected with a suit, acquiring money by taking advantage of the situation.

A clerk, distorting a statement, was punished.

Perjury was a culpable offence; the perjurer had to pay fine. According to Manu (viii. 118), a person resorts to this practice for the following reasons: greed, wrong impression, fear, friendship, passion, anger, ignorance, minority. A Brahmin perjurer was liable to *vivāsana* which means, according to some, banishment, and, according to others, making naked or breaking one's house. For a non-Brahmin resorting to perjury, the punishment, besides fine, is the cutting of the tongue or death. For a similar offence a Brahmin shall be fined or subjected to *vivāsana.*

For the wilful absence of a witness he shall be fined.

According to Bṛhaspati (SBE, 33, p. 301 verse 21), a dishonest judge, a perjurer and a murderer of a Brāhmaṇa belong to the same category of offenders.

According to Yājñavalkya (ii. 83) and some other Smṛti writers, perjury is allowed in a case where, as a result of speaking the truth, a member of any of the four castes is likely to suffer death-penalty. The sin, accruing from a false statement in such a case, is washed off by expiation.

Yājñavalkya hold (ii. 82) that if a witness, having promised to give evidence, withholds it he shall be fined if he is a non-Brāhmin. If he is a Brahmin, he shall be banished or his house will be razed to the ground.

CHAPTER XX

POLICE SYSTEM

In connection with the protection of the State, Manu ordains that there should be one gulma over two, three or five villages. A similar body will be established over a hundred villages too (vii. 114). Explaining the term *gulma,* Kullūka says that it is a body of guards. From this it appears to have been like a police station or outpost of the present times.

The word *coragrāha* occur at certain places, e.g. *Nārada-smṛti* (Supplementary verse 18) and Kātyāyana quoted in the *Aparārka* .commentary (p. 844) on the *Yājñavalkya-smṛti* The word appears to denote an officer for catching thieves. The word *corarajjuka,* occurring in the *Arthaśāstra* (4.13) perhaps denotes an officer whose duty was to get a thief bound by a rope. In the same work (2.6) *corarajju* is stated among the elements of the state.

The term *cauroddharaṇika* occurs in some inscriptions and grants.[1] It perhaps means one who arrests a thief or eradicates him. *Coroddhartā,* occurs in Yājñavalkya (ii.)271,). Kātyāyana, quoted in *Aparāka,* (p. 844) is probably synonymous with it.

Yājñavalkya mentions (ii. 173) an officer called *Sthāna-pāla.* It, according to the *Mitākṣarā,* denotes the protector of a place. Such officers probably used to mount guard at specified places and to find out lost articles.

---

[1] Gupta Inscriptions No. 46, p. 213, p. 216. Valabhi Grant of Dharasena II (Gupta era 252, I. A., 15, p. 187). Bhagalpur plate of Nārāyaṇapāla (I. A. 15, p. 304). Laksmaṇasena's Grant (E. 1., XI, p. 6, p. 9, etc.).

The word *Dāṇḍika* occurs in some inscriptions and grants.[1] It perhaps denotes a high police official.

The term *Daṇḍanāyaka* means, accourding to Stein (*Rāja-taraṅgiṇi* vii. 951), the police Chief.

The words *Dauḥsādha-sādhanika*[2], *Dauḥsādhika*[3], *Mahā-dauḥsādha-sādhanika*[4], etc., refer, according to Kane, to such a man as arrests terrible robbers; it is difficult to arrest them.

Piśunavetrika[5] probably denotes a royal officer who drives away undesirable elements with a cane.

In the *Āpastamba-dharmasūtra* (ii. 10. 26. 6-8). it is stated that the officer concerned shall see to it that theft is not committed within an area of one *Yojana*. This area is up to one *Krośa* in rural regions.

From the above account it seems that the police was responsible for both the prevention and remedy of theft.

In the *Abhijñāna-śakuntala,* we find two policemen. The king's brother-in-law appears as the superior officer of police officers. In the *Mṛcchakaṭika,* there are references to two city policemen.

The work *nāgarika,* occurring in the *Vikramorvaśiya* (V. after verse 4), *Daśakumara-carita* (II. p.p. 58, 59, Bombay Skt. Series). denotes Police Chief, according to some the head of prisons, according to others.

Arrest

In the *Mitākṣarā* commentary on the *Yājñavalkya-smṛti* (ii. 1. 5) complaints are stated to be twofold, viz. complaint on suspicion (*śaṃkābhiyoga*) and that based on fact (*tattvābhiyoga*).

---

[1] Gupta Inscriptions No. 46, p. 213 (p. 216). Bhagalpur plate of Nārāyanapāla (I. A. 15, p. 304, p. 306). Nalanda plate of Deva-pala (E. I. xvii, p. 321).

[2] Banskhara Plate of Harṣa (E. I. iv, p. 208, p. 271). Sevadi plates of Cāhamāna Ratnapāla, Saṃvat 1176 (E. I. XI, p. 310), *dauhsādha-sādhanika.*

[3] Lakṣmaṇasena's Grant (1122 A. D. E. I. XII, p. 9, p. 306, Deva-pāla's Nālanda Plate, E. I. XI, p. 139, p. 141.

[4] Nārāyaṇapāla's Plate. I. A. 15, p. 304, p. 306.

[5] Mahābhavagupta I's plate E. I. p. 93, p. 94.

According to Kauṭilya (4.6.2) arrest may be in three ways :

(1) Śaṃkābhigraha—in such a case, there is no definite evidence of the crime. A person is regarded as the offender on an examination of circumstantial evidence, e.g. extravagance, too much addiction to wine or women, gambling, secret treatment of physical wounds, clandestine movement at night, disguise, evasion of the sight of royal officers, undue and repeated curiosity about others' wives, property and house etc. In such circumstances, the person concerned can be arrested on the suspicion of theft, murder or adultery.

(2) Rūpābhigraha—a person found in possession of stolen articles, can be arrested. If the accused can prove that he acquired those things by valid modes like purchase, he shall be released. Otherwise, he is regarded as a thief (4. 6. 3-15).

(3) Karmābhigraha—arrest on *prime facie* evidence.

The word *ārakṣaka,* occurring in the *Pañcatantra, Daśakumāra-carita* etc. probably denotes guard or Police Magistrate.

As at present preventive detention was in vogue in ancient India too. In order to prevent a possible crime, some people were kept confined without trial. The following classes of people were kept under surveillance and, if necessary, kept confined.

1. An unemployed person.
2. A person whose family and conduct are unknown.
3. A rich man who is in a declining condition.
4. Men and women gone astray.
5. People of suspicious movements.
6. Night-rangers, drunkards and passionate people.

7. One distressed by imaginary fear.
8. One engaged in the clandestine sale or purchase of articles.
9. One engaged in clandestine trade in precious articles like gold.
10. A habitual offender.

CHAPTER XXI

PRISON

The practice of imprisoning an offender harks back to a remote age. According to Kauṭilya (II. 5), a prison will be situated in the capital. In it separate space should be provided for men and women, and the entrance must be guarded well.

According to Manu (ix. 288), a prison should be near the highway. This will enable people to witness the wretched condition of the prisoners. As a result, they will desist from crimes.

The prisoners may be set free if they work everyday or once in every five days or suffer corporal punishment.

In some works we find the practice of granting amnesty to prisoners on an auspicious day or on a festive occasion. The *Mālavikāgnimtra* (iv. portion following v. 5) refers to the release of prisoners for acquiring merit. In the *Raghuvaṃśa* (xvii. 19) there is reference to the relase of a prisoner and the commutation of death sentence on the occasion of coranation. In the *Bṛhat-saṃhitā* (47. 81) we find that, though there was the custom of discharging prisoners on an auspicious day, yet the release of a prisoner accused of an offence against the person of the king or the royal harem was prohibited. The *Mṛcchakaṭika* refers (X), to the setting free of prisoners on different occasions. The *Harṣacarita* mentions (II, para 2; IV) the release of prisoners at the time of coronation and the birth of Harṣa. The same work gives some idea of the mode of life of prisoners. A prisoner is described as having long beard on his face and his body covered with dust.

According to Kauṭilya (II. 36), the following prisoners should be set free on the birth-anniversary of the king and on the full-moon day of every month: one of tender age, too old person, sick man, helpless person, one who has paid the specified fine or has furnished a written consent to do so. Besides the above occasions, there is provision for amnesty on the following occasions: Conquest of a new kingdom, the birth of a son to the king etc.

All criminals, however, did not deserve forgiveness. Manu and Viṣṇu provide that if the king forgives an offender who is not penitent or commits crimes repeatedly the sin of the offence concerned will tarnish him. According to Manu, in violent crimes like homicide, incendiarism etc. forgivences is forbidden.

From some edicts[1] of Aśoka it appears that he gave three days' time to a criminal sentenced to death. We are further told that, in a span of twenty-six years, he granted amnesty twenty-five times.

---

[1] E.g. Delhi Topra Pillar Edict Corpus I. 1, Vol. I, p.p. 126-128 and E. L, Vol. II, p.p. 258-59.

CHAPTER XXII

ESPIONACE

In the British regime, the Criminal Investigation Department (C.I.D.) was established. It was very efficient. The system of training spies is Scotlandyard, England, is famous throughout the world. Terrorism was a part of the revolutionary movement before the liberation of India. The British Administrator tried various means to collect information about the revolutionaries and terrorists. One of the means was to set student spies against fellow students. Some people used to supply information about revolutionary colleagues out of greed of money or for winning the favour of the Government Spies used to move about in villages, business centres etc.

The system of espionage in ancient India was highly developed. The kings were described as having eyes in the form of spies. The spy was called *cara* or *praṇidhi*. There is a detailed description of spies is the *Arthaśāstra* 1.11.2-20, 12.1-5 etc.).

The spies were of two classes, viz. *Saṃsthā* and *Sañcāra*. Those of the first class used to stay at one place while those of the other class used to go from place to place.

The spies of the *Saṃsthā* class were of five kinds :

1. Kāpatika—a student or assistant secretly supplying information about mischievous people to the king or the minister concerned.
2. Udāsthita—a monk or mendicant fallen from his means of livelihood. Spies, disguised as monks or mendicants, used to surround him :
3. Gṛhapatika—Vyañjana—a cultivator who has lost his livelihood, and enjoys royal help. Many spies used to live under him.

4. Vaidehaka—vyañjana— a merchant who has lost his livelihood, and enjoys royal patronage. Many spies used to live under him.
5. Tāpasa-vyañjana—a hypocritical ascetic pretending to be a great man. Espionage was carried on keeping him at the centre.

The *Sañcāra* spies were of four kinds :

1. Sattrī—the spy par excellence. He is ostensibly an orphan, trained well by the Government.
2. Tikṣṇa—a desperate fellow free from fear. A king's enemy used to be liquidated through him.
3. Rasada—a spy administering poison.

The spies of the last two classes used to inflict *Upāṃśu*-daṇḍa (secret punishment) and *Tūṣṇīṃ-daṇḍa* (silent punishment).

4. Bhikṣukī or Parivrājikā—a Brahmin female mendicant. As she enjoyed royal favour, she used to be cordially received in the houses of high royal officers. This offered her an opportunity to collect information about harmful activities, if any. Buddhist nuns were also used to do this work.

The spies of the *Saṃsthā* class used to work under the *Samāhartā*. The latter used to verify the information, collected by *Gopas,* through these spies. Through them he used to collect information also about the anti-state activities of the people and royal officers (2.35). The Samñcāra spies also used to work at the direction of the *Samāhartā*. The information, collected by them, was at first sent to the *Saṃsthā* (1.12.7-12).

A kind of spies was employed in a foreign State too. Such a spy used to be paid by his king, and earned money by serving the foreign king or his minister. So, he was designated as *Ubhaya-Vetana.* He used to supply secret information to his own king. As a safeguard against his possible activities against his king, his family members used to be kept as hostages (1.12.17-19).

The astute Kauṭilya knew that a spy, out of a sinister motive, might supply false or distorted information. So, he ordained that the king should believe an information supplied by three independent sources.

A spy, at the instigation of others or out of a mischievous spirit, may cause physical injury to the king in a lonely place. So, Manu provides (vii. 223) that the king, armed with weapons, should meet the spies.

CHAPTER XXIII

OFFENCES AND OFFENDERS IN LITERATURE

Human society consists of both good and bad elements. As every human body is subjected to some disease or other, so the society cannot be free from offences which are like diseases. So, no picture of a society can be complete without an account of the offences and offenders. Such accounts can be gathered from the works in Sanskrit, Pāli and Pākrit works about the society through millenniums since the Vedic age. These accounts reveal the natural tendencies of some people, and help literary purposes. We shall try to draw a broad outline of the offences and offenders mentioned in literary works.

Age of the Vedas

In modern times it is a common sight to see young men running after beautiful damsels. Sometimes, this tendency goes to such an extent that it creates a law and order problem. It is curious that this tendency is referred to in the remote Vedic age too. In the *Ṛgveda* (I. 115. 2), the sun rising after dawn is likened to a man following a woman.

In the dialogue between Yama and Yamī (RV. X. 10). we find the full-blooded passionate Yamī trying to induce her brother to have sexual union with her. VI. 55.4 refers to the sexual inter-course of the father and daughter. This Veda refers to illicit sexual relation (I. 134. 3, VII. 9. 1), conjugal infidelity (IV. 5.$, VII. 104. 17), abortion (II. 29, 11) etc. X, 107, 8-9 refer to addiction to the vice of drinking and enjoying woman.

X. 34 depicts the miserable condition resulting from addiction to dicing.

There are references to theft and robbery (I. 33. 4, 6, 7; 42. 3; II. 18; 23. 16), cheating (II. 23. 5, V. 34. 7) etc.

In the society of the *Atharvaveda* wilful abortion, abduction of women, illicit sexual union etc. are referred to. AV. V.

35. 4, cviii. 3. 1. etc. appear to hint at parricide and fratricide. In certain rites human sacrifices appear to have been in vogue. At certain places, there are references (e.g. V. 7. 10) to prostitution.

The *Yajurveda* (*Vājasanejī Saṃhitā,* 16. 21. 22) mentions some offenders. Among them are cheats, petty thieves, big thieves, cut-purses, night-rengers, snatchers, cut-throats, robbers holding swords, robbers with bows and arms, hooligans wearing turbans and moving about in groups etc.

Age of Brahmanas

The *Śatapatha* refers (13. 2. 4. 2) to bandits and thieves.

Age of Sutras

In various works of the Kalpasūtra, there are references to rape, adultery, defamation, assault, murder, theft, destruction of ripe crops, abetting a criimnal, transgression of the rules of castes and stages of life.

Panini and Patanjali

Pāṇini refers to theft (V. 2. 125), plunder (iii. 2. 155) and highway robbery (iv. 4. 36). The following crimes are also referred to by him: child-murder, severing the head, destruction of foetus. (vi. 1. 174) and murder of a Brāhmaṇa (iii. 2. 87).

Patañjali, in his *Mahābhāśya,* refers to the following criminals: cheat (V. 2.76), abductor of women (i. 1. 40), murderer of a boy (iii. 2. 84), distroyer of foetus (vi. 4. 174).

Ramayana and Mahabharata

The *Rāmāyaṇa* contains many descriptions of unrestrained sexual enjoyment. A peep into the harem of Rāvaṇa reveals a lewd picture of sex-life. The carrying away of Sītā by Rāvaṇa is an instance of abduction of women. This tendency was not rare in the Aryan society too. A glaring example is the calandestine union of Indra and Ahalyā, wife of sage Gautama.

The *Mahābhārata* contains references to many offences; e.g. drinking, gambling, adultery etc. in the Śāntiparvan (140.

26). The Vanaparvan, too, refers (13. 7) to some such offences. That gambling with dice was very common is proved by the loss of the kingdom of Yudhiṣṭhira, defeated in dicing.

Puranis Age

Among the offences, mentioned in the *Agnipurāṇa* (227. 36, 50-54), the most noteworthy are assault, murder, theft, adultery, destruction of houses, grazing fields, poisoning, instigation of the queen to evil deeds, perjury, sedition, mutilation of a corpse, theft of the water-pot or rope from a public well, obstruction to the natural flow of water, cruelty to animals, aiding a prisoner to escape.

Age of Smrti

There is a regular penal code in this Śāstra. Some Smṛti works contain references to all kinds of possible sins, the relevant expiation and, in appropriate cases, punishment by the king. We state below a few such culpable offences which were common in the society. In the introduction, we have stated eighteen titles of disputes.

The following offences appear to have been common: beating the brother's wife, causing the abortion of a female slave, non-response to a call for help against a thief, such vulgar remarks as 'I shall violate the chastity of your mother', emasculation of a bull, to desert the father, brother or husband though they are not apostates, the washerman's wearing or selling off others' clothes, forgery of documents, making counterfeit coins, keeping a person confined without royal order, adulteration of medicine and food, selling clothes, jewels etc. of inferior quality after declaring these as of superior quality.

In a court of law, besides perjury, the following offences were punishable; fase complaint, intimidation of a witness.

Ātatāyins have been defined in the Introduction.

Arthasastra

Among other offences, mentioned in it, there is the sale of a minor or borrowing money by pledging him (III. 13. 1).

A class of robbers, called Mānavas, is mentioned (IV. 5. 1-7). They were probably plunderers and used to practise black magic.

It was punishable to help a woman in becoming a wandering mendicant and leaving home (II. 1. 29).

A class of royal officers and some other people are designated as *Gūḍhājīvas* or earning livelihood by clandestine means. They have been deat with in connexion with offences against the king.

There are references to cheating by weavers, washermen, goldsmiths etc., shortage of weights and measures, charging exorbitant price, adulteration : these were some of the common means of deception.

Theft, entrance into a fort without permission, deceitful dicing, sale of human flesh etc., are included among grave offences.

Science of Theft

It has been discussed in the work, entitled *Ṣanmukhakalpa.* In it are discussed methods of making oneself invisible, fording a marshy land, controlling others, depriving others of the power to see, opening closed doors, cutting holes into walls.

Classical Sanskrit Literature

The works of this class contain copious references to drinking. As in the present times, among certain classes of people, the first friendship started with drinking together. There is reference to this practice in the *Abijñāna-śakuntala* (vi).

The drinking house, referred to in some works, perhaps corresponds to the modern bar. The word *Madhukoṣaka* denotes goblet. In the *Kādambarī* (p. 149—Kale, 1938), the word *nānāsava-pātra* obviously refers to various drinking vessels.

Theft was so widely prevalent that it has been included among the 64 arts. Regarding the adroitness of a thief the *Mahābhāṣya* states (ii. 4. 19) that he steals even collyrium from another's eyes. In the *Daśakumāra-carita* (Kale, p. 22), it appears to have been a subject of study of the princes. The very name Apahāravarman in it contains a covert reference to *apaharaṇa* or theft. The object of his theft was noble. Like Robin Hood he used to rob the rich Peter to pay the poor Paul, and used to bring about the union of the lovers and the beloved.

The most noteworthy story of theft occurs in Bilhaṇa's Caurapañcāśikā. The theft was for love, and was committed by the lover of the princes. Śarvilaka in the *Mṛcchakaṭika* committed theft for securing the ransom of his beloved, and not out of evil motive.

The activities of thieves were not confined merely to the houses of people. The *Divyāvadāna* contains the word *Udyānamoṣaka* who, like the poacher of to-day, used to steal things from gardens.

Various references to theft occur in the *Cārudatta* of Bhāsa, *Kathāsaritsāgara, Puruṣaparīkā* of Vidyāpati, *Vetāiapañcaviṃśati, Śukasaptati, katharṇava* of Śivadāsa, Jāina *Kathākośa* etc.

In his commentary on the *Mṛcchakaṭika* (iii. 14) Lalla Dīkṣita refers to a Caurya-śāstra. We have already referred to the *Ṣanmukha-kalpa* dealing with theft. According to tradition, Mūladeva was the formulator of this Śāstra. The significance of the word Mūladeva is, perhaps, that thieves used roots of trees to control people whose wealth was stolen. Mūladeva is also called Karnī-sūta or Goṇikāputra.

Besides some herbs for controlling people and rendering them unconscious etc., the work contains some charms too for use by thieves. A method, practised by thieves, is stated below as a specimen. A tablet is to be made with the mixture of the eyes of a tiger, horse and cat as well as the bile of a goat. If one keeps it in the mouth uttering the incantation *Oṃ namo hariṇī Svāhā,* one can be popular. One can go anywhere at will by keeping in the mouth a tablet made of the eyes of a deer, boar and goat alongwith the blood of a hair.

Theft by digging tunnels was rampant. In Bhāsa's *Cārudatta,* various types of tunnels are mentioned; e.g. *Jhaṣāsya* (the face of a fish), *Gajāsya* (face of an elephant), *Vyāghravaktra* (face of a tiger), *Pūrṇacandra* (full moon), *Candrārdha* (crescent moon) etc.

Various instruments and appliances required in theft are mentioned in the *Daśakumāra-carita, Mṛcchakatika, Kathāsaritsāgara* etc. Some of these are *Phaṇimukha* (snake-face), *Karkatarajju* (rope like a crab), *Yogacūrṇa* (magic powder), *Yogavaritkā* (magic light). Some charms, used by thieves, are *Advasvapnikā* (for making others sleep), *Tālodghāṭinī* (breathing locks).

In the *Mṛcchakaṭika* (iii. 12. 16), there is reference to a means of getting rid of a snake in the tunnel. In this work as well as in the *Cārudatta,* there is mention of a dummy man used for feeling whether or not there is danger at the other end of the tunnel. A musical instrument, called *Kākalī,* producing a mild sound, used to be played to ascertain whether or not the inmates were awake within the house. A thief used to carry with him a box full of bees or other insects. These were let loose for extinguishing lights within the house.

Pali Litereature

Illicit sexual relations appear to have been very common. Among the rules of *Pañcaśīla,* preached by the Buddha, one was abstinence from adultery. It has been condemned in various works, e.g. *Bhikṣuṇīvibbhaṅga, Saṃghādiśeṣa,* II, *Vinayapiṭaka. Mahādukkha- khandha-sutta* (*Majjhima Nikāya, I*), *Dhammikasutta, Dhammapada* (22, 4, 5), *Bhikkhupātimokkha* etc.

The *Dhammapada* (9. 8) and the *Pātimokkha* (I) etc. testify to robbery in the society.

Murder is mentioned in some works, e.g. *Bhikkhupātimokkha.*

Among the punishable offences, mentioned in the *Sammādiṭṭhi sutta* (*Majjhima-nikāya,* I), are murder, theft, illicit sexual union.

CC-0. Agamnigam Digital Preservation Foundation, Chandigarh

Theft and abetment of theft, aiding illicit sex-relation, harbouring of stolen properties etc. are mentioned in various works; e.g. *Dhammika sutta* (*Suttanipāta*), *Sāriputtasutta*. Dhammapāla's commentary on the *Therīgāthā* etc.

The *Kaṭāhajātaka* refers to the forging of documents etc.

Various Pāli works, particularly, Jātakas, refer to drinking which seems to have been widely prevalent. Among the five Commandments (*Pañcaśīla*), one is abstinence from drinking. The *Dhammapada* (18. 13) severely condemns it.

Gambling with dice is mentioned; e.g. *Dhamapada* commentary (3).

The *Jātakas* refer to certain other offences, e.g. accepting bribe (*Taṇḍulanālī Jātaka,* theft (*Mahiḷāmukta Jātaka*), murder (Do), docoity (*Kulāyaka Jātaka*), confining a debtor so long as debt is not repaid (*Vedabbha Jātaka*), illicit sex-relation (*Mahāsīla Jātaka*).

Prakrit and Apabhramsa Literatures

Illicit sexual union is mentioned in the *Gāthāsaptaśtī* (iv. 60, iii. 37 etc.). In the *Jasaharacariū* (ii. 8) there is reference to the queen's relation with a hump-backed person. At other places of this work, too, there are references to clandestine sexual union of men and women. Abduction of women (*Dhammapada,* ii. 18) and sedition (Ibid. iv. 96) are also mentioned. The *Karakaṇḍa-cariū* refers (i. 5) to the son of an unmarried girl.

Drinking is referred to the *Gāthā-saptaśatī*. Even women are stated to be addicted to it (vi. 44, iii. 70). iii. 27 mentions *Pānakuṭī* or bar. The *Karpūra-mañjarī,* too, refers (acts i, iii and iv) to drinking. The *Karakaṇḍa-cariū* also testifies to drinking (ix. 21).

There is reference, in the *Karakaṇḍa-cariū* (i. 17), to theft.

CHAPTER XXII

PROSTITUTION

Prostitution is, perhaps, co-eval with human society. It is found in all countries and all ages. The sociologists think that it is a necessary evil. Many moralists think that it leads man astray, and sets a bad example before the people; so it should be totally abolished. But, most social leaders think that the sex impulse of man is inherent. Some people do not get an opportunity to satisfy this impulse. Unless there is prostitution, such people will not have any means of satisfying their carnel desire. Thus, an aspect of their life will remain incomplete. The result will be that they will resort to clandestine sexual enjoyment; this will stand in the way of the healthy growth of the society.

In ancient India, despite ethical principles, religious rites, philosophy etc. prostitution was not eradicated. Besides administrative rules relating to prostitutes, various matters concerning prostitution have been discussed in some works, particularly in the *Kāmasūtra*. It has been dealt with chiefly in the following works: Dāmodaragupta's *Kuṭṭanīmata*, Kṣemendra's *Samayamātṛkā*, *Deśopodeśa*, *Kalāvilāsa* (iv).

Chapter XXIV of the *Nāṭyaśāstra* is devoted to this subject. The administrative aspect has been dealt with in the *Arthaśāstra*.

Words denoting prostitutes

That the society looked at the various traits of prostitutes and that they tried in a number of ways to attract people are proved by the many synonyms of the word *gaṇikā*. The synonyms are: *Bandhakī* (related to many men through passion), *Rūpājīvā* (one who earns livelihood by beautiful appearance), *Veśyā* (one who causes delusion in man by dress), *Gaṇikā* (living in *gaṇas* or groups, or enjoyed by a number of people), *Vārāṅgaṇā* (one who is enjoyed by turn), *Kuṭṭanī* or *Śambhalī* (one who procures passionate people), *puṃścalī* (running after a man), *Kumbhadāsī* and *Paricārikā* (a woman in keeping). There is mention of the *Patakāveśyā* in the *Pādatāḍitaka*; (Calcutta, p. 192, line 19). Such a woman perhaps used to attract people by hoisting a flag.

Prostitutes of three kinds are also mentioned: *Ekaparigrahā* (attached to one), *Anekaparigrahā* (attached to many), *Aparigrahā* (not attached to a particular individual). The *Arthaśāstra* mentions (3.20.15) *Anyoparuddhā* who was, perhaps, kept for the personal enjoyment of a particular individual. Kauṭilya mentions the following: *Rūpodāsī* (2.27) and *Gaṇikādāsī* (I bid).

Secret and open prostitution

A class of women, living in the harlots' quarters, used to take to this profession. Besides them, a class of women used to move about in the society as secret prostitutes. They are variously called *Kulaṭā* (a family women gone astray), *Svairiṇī* (a self-willed woman defying social restrictions), *Prakāśa-vinaṣṭā* (one snapping the family tie). They were what is conveyed by the term demimonde. Dancing girls, carftswomen, *Kumbhadāsī, Paricārikā*—they belonged to this class.

Observations of authors on the enjoyment of prostitutes

In the *Kuṭṭanīmata* (789) it is stated that in order to prevent diseases caused by a very strong desire of sexual enjoyment, one should enjoy prostitutes. In the *Samayamātṛkā* (viii. 93) it is stated that sexual union with a prostitute is more pleasant than that with one's wife. The idea is that a married woman, due to child-birth, soon loses her youth so that she cannot give much pleasure. Moreover, she cannot attract her husband with passionate movements like a prostitute. The urge for enjoyment of a married woman is not as strong as that of a prostitute. In the *Deśopadeśa* he says that a mature prostitute is passion incarnate.

Wiles of prostitutes, their profession

In the *Kāmasūtra* and other works, dealing with prostitution, there is much information about the prostitute's training, wiles and profession. The word *mātṛkā,* occurring in the *Artha-*

śāstra (2.27), perhaps denotes a superannuated prostitute who used to train others. Among the subjects to be learnt by prostitutes are: dance, song, music, acting, reading, writing, painting, thought-reading, shampooing, making perfumes and garlands. The trainers of prostitutes will be maintained by the king.

Vātsyāyana's observations are as follows: in order to attract people, prostitutes, being adorned with ornaments, will sit down looking at the highway. Her body will be silghtly displayed, but not fully.

Those, through whom they will procure people, are as follows: a powerful hero, *Pīṭhamarda* (Companion of the hero), *Viṭa, Vidūṣaka* (Jester), *Mālākāra* (garland-marker), distiller or seller of wine, washerman, barber. They visit others' houses and are able to bring passionate people.

Those, whom a prostitute should approach for making money, are mainly the following: very young man, rich man, a finance officer, one enjoying unearned income, one proud of high family and learning, a charitably disposed man, one who is respected by the king or the minister, one devoid of love of money, one who transgresses the control of superiors, the only son of a rich man, an ascetic with hidden passion.

For the acquisition of joy and fame a qualified man should be approached; *e.g.* a learned man, a poet, a devotee etc.

The following persons are unfit: leper, one having a foul-smelling mouth, one attached to own wife, a harsh-tongued man, a cruel person, a thief, a shameless person.

According to Vātsyāyana, the following are the reasons for a prostitute approaching a man; acquisition of money, remedy against danger and joy.

Even when a deserving person wants to be united with a prostitute, she should not make herself easily available. Before approaching him she must be sure about his affection, disaffection, habit of gift etc.

On the following occasions, a prostitute may visit the house of a man or the latter can visit that of the former: Cock-fight, ram-fight, *prekṣaṇaka* (show, exhibition) etc.

When a man comes, a woman shall try to influence him by sending him a present through an attendant expert in jokes, conversation and games. The woman herself, on a pretext, will be present. Betel-leaf, garland, cosmetics etc. are articles for present. The arrangement of *Kalāgoṣṭthī* (a meeting for the display of arts ?) is also recommended. For establishing friendship there may be exchange of the upper garment and the ring. Through the *Pīṭhamarda* and the like the man should be told—'why should you take the trouble of going at night, please stay on here'. The articles indicating sexual union should be placed before him.

There are also other means of attracting the mind of the hero. Even if sexual intercourse is done and if as accessories wine, betel-leaf etc. are given the heroine should praise them eloquently. Moreover, she will express eagerness to be his pupil in the 64 arts. She will do in a lonely place what is delightful to the hero. She will express supreme satisfaction after cohabiting with him. By gestures and hints she will make him feel that she is very much devoted to him. She will express grief at the sorrow of the hero. She will express her desire to go abroad with him. When the hero is about to start for a journey, she will earnestly request him to return soon.

Means are stated for getting rid of a hero. Though he gives much, yet he will be accused of giving too little. By various intrigues he will be removed. At the time of sexual union, the heroine will show indifference. If he is poor, he should be openly removed. Before dismissing one, another should be resorted to.

The substance of the advice of an old procuress to a young harlot in the *Kuṭṭanīmata,* is as follows :

You should pretend love for attracting rich men, the motive being nothing but appropriating his money. The author mentions some wiles of harlots too.

In the *Samayamātṛkā* we find how a young courtesan, aided by an old bawd, ensnared a rich young man and took away the wealth from his parents.

The activities of a courtesan, depicted in the *Deśopodeśa,* are curious. She makes a wise man foolish, a rich man destitute, and an honest man a thief. Though old, she is ever eager to preserve her beauty. Though devoid of grace, she keeps her face half-covered, plump breasts uncovered and hairs dishevelled ; thus she tries to attract people. She ensnares a man by a peculiar glance. At the arrival of a rich man she behaves like a butcher at the sight of a sheep. She is an adept in uttering flattering words full of artificial affection.

The conduct of prostitutes has been dealt with in the *Kalāvilāsa*. The author has mentioned the 64 arts to be learnt by them. Among these are side-long glance, deception of friends, weeping, feigned sleep, pretending death, theft, means of bringing one under control. Kṣemendra declares that they are many-hearted, myriad-tongued, multi-armed and experienced in various ruses. So, it is difficult to understand their motive.

From the *Dhammapada Aṭṭhakathā* (I, p. 3 ; III. p. 30) we learn that a courtesan, Sirimā by name, was engaged by a rich man for a fortnight at 1000 coins a night.

Position of prostitutes in society

An honest man should look upon a prostitute with contempt. Dāmodaragupta has warned people against the trap laid by prostitutes. In certain cases, such women enjoyed some respect. The leaders of society looked upon them as a part of the society. The *Arthaśāstra* records humane treatment to them. There are references in Dharmasūtras to respect shown to them. There was the practice of engaging courtesans to receive distinguished guests and in the processions of members of the royal family (Rām. ii. 36. 3, vi. 127. 3-5). It may be noted that we learn of Geisha girls of Japan entertaining the guests.

The *Arthaśāstra* provides (2.27) that if a prostitute, in defiance of the royal order, is unwilling to meet a man she shall be whipped or shall pay a fine of 5000 paṇas. If even after accepting money, she does not yield her body to a man then she shall pay a fine of double the amount received.

It is a punishable offence to enjoy a prostitute against her will or to enjoy her virgin girl.

That the prostitutes were not regarded as people beyond the society is proved by the provision that, in *Durgāpūjā*, the soil at the door of a prostitute is necessary. According to Purāṇas, even a Brāhmaṇa, versed in the Veda, can accept gifts from a prostitute.

From the *Arthaśāstra* prostitution appears to have been controlled by the state. A high functionary, called *Gaṇikādhyakṣa,* was in charge of this department. A part of the income from prostitutes' quarters was paid as revenue. Sometimes they were used for political ends. The king tried to bring about ruin by creating quarrel among the heads of *Saṃghas* (monastery) who were rebellious (2. 1. 34-39). Every prostitute had to pay double the earnings of a day every month as revenue (2. 27).

A courtesan is found as an attendant in the royal harem (1. 20. 20). It is her duty to hold the umbrella, carry water-pots and to use a hand-fan.

Harlot's quarters appear to have been situated in the south of the city (2. 4. 11). They were also allowed to live near a military camp and by the side of big roads (10 1. 10). In the *Mahābhāṣya* (iv. 2. 40), we find that courtesans used to live in groups called *Gāṇikyas.*

The *Arthaśātra* refers to *Bandhakīpoṣakas.* They used to run brothels with beautiful girls. A part of the income thus derived went to the exhequer (5. 2. 28).

A courtesan could be set free on payment of 2400 *Paṇas.*

The word *Viṣakanyā* occurs in the *Mudrārāṣasa* and some other works. A woman was slowly poisoned till at last her whole body became so dangerous that even her breath became fatal. Such a woman was set against a passionate enemy. It was believed that sexual union with her was sure to cause death to a man.

The word *devadāsī* is very old. It occurs in the *Arthaśāstra, Rājataraṅgiṇī* etc. Devadāsīs cannot be definitely classed as courtesans. They were, to some extent, like the Vestal Virgins of Rome. They were dedicated for dancing in temples. The *Arthaśāstra* states (2. 23. 2) that they were appointed for a fixed period after which they were engaged in spinning.

Description of Courtesans in anthologies

Some anthologies quote verses from various texts about courtesans. We translate below some such verses from the *Sadukti-karṇāmṛta* of Śrīdharadāsa of the court of Lakṣmaṇa-sena (12th. cent.) of Bengal :

1. The hero has no jealousy towards a woman of a family. He does not enjoy himself fearlessly with the wife of another. But, both these have happened in the case of the prostitute. O, it is for this reason that they are the entire property of Cupid.. 556
2. It seems that Cupid, reduced to ashes in ancient times by the flames of the fire of the angry Śiva, is being revived by the glances of the courtesan. 557
3. The courtesans, decorated with dark hair, dyed with the colour of betel-leaves, adorned with leafy decorations of their own brightness, marks of teeth and nails, beautiful on account of glances with trembling eye-corners and ear-lotuses wearing bright ornaments, are agitating Cupid himself. 558
4. The courtesan, moving slowly under the weight of the hips, goes while revealing nail-marks on her breasts due to the raising of hands on the pretext of putting the slightly dropping garland in the proper place, rendering the mind restless by her very long eyes like a garland of blue lotuses, with the jingling sound of the bangles shaking due to the movement of the hands. 559
5. The courtesan, affectionate for a moment, fickle-minded like a sea-wave, after finishing her business robs a man of all his belongings and then leaves his like lac-dye that has been wiped out. 560

In various works, many incidents relating to courtesans have been described. In this connexion, we remember Vasanta-senā of the *Mṛcchakaṭika*. She is highly accomplished, and does not hanker after money. She loves Cārudatta because of his virtues though he is poor. For the little son of Cārudatta she does not hesitate to put off all her ornaments. She spurns the overtures of the passionate Śakāra. Even when she was on the point of being strangled she paid obeisance to Cārudutta. She is an example of the fact that like Candramukhī of the novelist, Sarat Chandra, even courtesans may have pure love and tendereness in her heart.

Madanamālā of the *Kathāsarit-sāgara,* Kuberasenā of the *Pariśiṣṭaparvan* are some other noble courtesans. They remind us of the Hetaera of the Periclean Athens, the Aspasia and Phrynas of ancient Greece.

Various literary works describe the fickle mind, wiles, greed, heartlessness, deceitfulness etc. of prostitutes. The one-act plays, known as *Caturbhānī*, describe various aspects of the life of harlots. They also describe the conduct of passionate people attached to them. From these works we learn that, besides *Vita, Dhūrta* etc., the sons of rich men sometimes were attached to prostitutes. Among them were sons of merchants and bankers. Even sons of Brāhmaṇas are stated to have been addicted to this vice. Some of the Buddhist monks secretly indulged in it. Monks are seen to move surreptitiously in convents to satisfy their passion. In the *Ubhayābhisārikā* we meet with a woman who, though a wandering mendicant, was a secret prostitute. In the *Dhurtaviṭa-saṃvāda*, the Viṭa tells a merchant's son that it is more pleasant to enjoy a prostitute than one's married wife. So, he should not agree to the marriage proposed by his father. From these works we further learn that there were regular prostitutes' quarters in ancient Pāṭaliputra and Ujjayinī and that many people used to frequent those places. Some of harlots, mentioned in these works, appear to have had genuine love and not swayed merely by passion and carnality. Some of them were accomplished and experienced in dance, music, acting etc. A noteworthy trait of their character was impeccable etiquette and dealings.

In sex-enjoyment there was no consideration of castes. A Brāhmaṇa is seen enjoying a Buddhist nun.

Some prostitutes show the tendency of intercourse by day. It seems the dramatist introduced it to evoke laughter; in that age, too, this tendency was ridiculous.

In those times, it seems Yavanīs[1] were in the keeping of some people (*Pādatāḍitaka*, p. 109, line 18). This word, generally denoting a foreigner, stood for Greek or Persian women.

Quite a number of farcical plays contain themes centering round harlots. In the *Bhagavadajjukīya*, the strange story of a courtesan is amusing. As the soul of an ascetic entered the body of a courtesan and the soul of a courtesan entered that of the ascetic, each started behaving like the other.

In the *Laṭakamelaka* of Śaṃkhadhara (12. cent.) is described the assembly of many people desiring the company of a bawd. Of these there are a professor, a Digambara Jain, a Kāpālika, the village headman, a Brāhmaṇa, a preceptor, a Buddhist monk. This work reveals the dirty personal life of some upper class people wearing masks of culture.

Jagadīśvara's *Hāsyārṇava* describes the arrival of many people in the house of one courtesan. Among them are the royal priest, physician etc. The priest and the pupil fall out over the ownership of the courtesan.

Jyotirīśvaras' *Dhūrta-samāgama* (14th. cent.) describes the rivalry of an ascetic and his pupil for the possession of one courtesan. At last, the Brāhmaṇa mediator himself takes her.

The *Kautuka-sarvasva* of Gopīnātha describes the evil deeds of an immoral king for getting a courtesan coveted by many people.

The *Kautuka-ratnākara* of Kavitārkika states that a king engaged a courtesan in place of his abducted queen.

---

[1] The word *Yavanikā*, denoting the drop-curtain in a Sanskrit drama, has led some scholars to infer Greek influence on Indian drama. According to some, the *Yavanikā* was so called as it was made of Persian tapestries ; *yavana* denotes a Persian.

CHAPTER XXIII

WORKS DEALING WITH SEXOLOGY

Kāma stands third in the list of the four ends of life. As there are Dharmaśāstra and Arthaśāstra, there is Kāmaśāstra too. When this Śāstra originated it is not known. Of the extant works on sexology, the most important, well-known, authoritative and detailed one is the *Kāmasūtra* of Vātsyāyana. Vātsyāyana is variously assigned to periods ranging from the third century to the sixth. Some think that he flourished before Kālidāsa. We shall deal with the contents of this work later on. In this work, there is an account of the legendary origin of sexual science.

In the historical account of the origin of this science, the names of the authors are chronologically as follows : Auddālaki[1] Śvetaketu, Pañcāla Vābhravya, Dattaka, Cārāyaṇa, Suvarṇanābha, Gonardīya, Goṇikāputra and Kucumāra.

The *Bṛhadāraṇyaka Upaniṣad* (vi. 2) contains some information about sex-life. In it the sexual act has been symbolically stated. This act is fancied as a sacrifice ; the woman is fire, the seed cast into her leads to the birth of a man.

It cannot be definitely said to what extent Vātsyāsyana is original and how much he has borrowed from his predecessors.

We shall deal briefly with the later writers and their works.

The *Ratirahasya of* Kokkoka (C. 12th. cent.) is the earliest work of this age. The contents of its fifteen chapters are respectively as follows : division of women into four classes, the periodicity of their passion and methods of enjoying them, the places exciting passion and the times appropriate for coition, division of men and women in accordance with the dimension of their organs, various types of sexual union, division of women according to their nature and temperament, women of different regions and their sexual characteristics, embrace, kiss, nailmarks, caressing etc., selection of the wife and the creation of confidence in the wife and winning her love, behaviour of the wife, various stages of love and premarital relation, means of familiarity with women, real and magical methods of attracting their mind, augmentation of sexual power by medicine etc., recovery of the lost power and the accomplishment of other objects.

---

[1] In the *Mahābhārata* (I. 122, Calcutta) it is stated that it was he who, for the first time, introduced discipline in sex-life. Before him promiscuous and unrestrained sex-enjoyment prevailed in the society.

Generally speaking, Kokkoka's work is an echo of that of Vātsyāyana, but not a carbon copy. The spots on the female body, exciting passion, are toes, feet, knees, thighs, navel, breast, cheeks, lips etc.

According to the appearance, nature and some other characteristics, women are divided into the following classes : Padminī, Śaṃkhinī, Citriṇī and Hastinī. In this classification, Kokkoka appears to have followed Bharata's *Nātyaśāstra* (22).

Nāḍikṣobhaṇa is an addition by Kokkoka (X. 5-9). It means a particular act of the male designed to excite the passion of the female partner.

Kokkoka has made some other innovations which are not very noteworthy.

The *Padmaśrī* of the Buddhist Nāgarasarvasva was, perhaps, composed sometime between the tenth century and the fourteenth. Based mainly on the works of Vātsyāyana and Kokkoka, it contains thirty-eight chapters. The author has introduced some new matters of which the following deserve mention : the merit and demerit of jewels worn by the people, the means of getting a child (III), processes for making various cosmetics (IV).

In matters relating to the places exciting passion, the rise of passion, embrace, kiss etc. the author has followed Kokkoka or earlier writers. Kisses are divived into two classes, with sound and without sound. The latter is divided into seven varieties. A woman's kiss with sound has also seven varieties.

The *Ratiratna-pradīpikā* of Devarāja is a longer version of Kokkoka's work. According to some, the author is identical with king Devarāja II of Vijayanagar (d. 1446 A.D.).

In two chapters has been discussed Nābhikṣobhaṇa or the exciting of a woman's passion by a man before sexual union.

Bāhyarata and the seizing of a woman by a man in sexual union seem be discussed in this work alone. Seizure is fourfold :

Baddhamuṣṭi—in it the woman's body is tightly gripped

Veṣṭitaka—Catching the woman by her forelock.

Kṛtagranthika—entwining a woman's body like a creeper.

Samakṛṣṭi—pulling the woman's neck and breasts with the thumb and other fingers. Seizing the hair is also a distinct mode.

Yaśodhara's (C. 13th. cent.) commentary on the *Kāmasūtra,* called *Jayamangalā*, is important in the history of erotics. Besides commenting on the text, he has introduced certain new matters. Instead of the conventional four stages of life, he has indicated three : viz. immaturity till the sixteenth year, youth upto seventy and then mokṣa or liberation is to be thought of.

Vātsyāyana has described various modes of sex-act. But, Yaśodhara has stated two main divisions, viz. *Śuddha* and *Saṃkīrṇa*. Each again is sub-divided.

The *Pañcasāyaka* of the Maithila *Jyotirīśvara* (14th. cent. 1st. half) is another work. The *Rāgaśekhara* also is attributed to him. The title *Pañcasāyaka* is poetical. It means one having five arrows, *i.e.*, *Cupid*. It is written in five chapters called *Sāyakas*. In it the earlier authors have been mainly followed, The author, however, introduced some new matters. In the section called *Aupaniṣadika* Vātsyāyana, paying more attention to men, has suggested ways and medicines for increasing the sexual vigour. For a woman, he has prescribed merely means for expanding and contracting the vagina (vii. 2. 36-37). But, Jyotirīśvara has suggested means for increasing the size of the breasts, causing menstrual flow, impregnation, curing barrenness increasing the growth of hair, depilation etc.

Regarding man's tooth-marks on the woman's body, Vātsyāyana's *Khaṇḍābhraka* only has been taken by Jyotirīśvara. It means circular marks made by all the teeth on the breaths. He has mentioned two varieties called *Vidruma* and *Kolacarva* (iv. 59-63).

The *Anaṅgaraṅga* of Kalyāṇamalla (16th. cent.) is in ten chapters. Though he draws upon the works of Vātsyāyana etc., yet he has made some innovations. Perhaps, it is the only work that deals with *Liṅgakṣobhaṇa*. The author has got something new to say in the description of the female organ. Son of Gajamalla and grandson of Trailokyacandra, the author wrote it for the diversion of Lād Khān, son of Ahmad Khan of Ayodhyā.

The *Kandarpa-cūḍāmaṇi* (1577 A.D.) of Vīrabhadra, the Vaghela king, is an elaborate work. According to the author himself, the work is only a longer version of Vātsyāyana's.

There is nothing new in the *Ratiśāstra* ascribed to Nāgārjuna. It seems to be a late work.

The *Śṛṅgāra-mañjarī* of Āli Akbar Shāh (18th. cent.) is written in Telugu, and translated into Sanskrit.

Besides the above, the following works on sexology are available in print[1] :

Kāmakñjalatā—a compilation of earlier and rare works on sexology.

Kāmakautūhala of Hemādri—deals with sexology, treatment of some diseases. Written in verse.

Kāmaśāstra of Goraksanātha Yogīndra—contains prophecies about sex-life and information about medicines.

Kāmaśāstra or Śukrasaṃhitā or Ārogyasindhu of Raṅganātha Sakhārām Lale.

Some of the unpublished works on sexology are as follows[1] :

Anaṅgadīpikā of Rudrabhaṭṭa.
Kāmakalāvilāsa of Sūryanārāyaṇa

---

[1] For the editions, see *New Catalogus Catalogorum*, ed. V. Raghavan, Madras.

[2] See *New Catalogus* etc., *op. cit.*

Kāmakalpalatā of Maithila Kṛṣṇapati.

Kāmakārikā

Kāmakautūhala of Hemanātha

Kāmakaumudī of Ratinātha Chakrabarti

*Kāmatan*tra of Śiva.

Kāmadayinī of Yadunātha Sinha

Kāmadīpikā

Kāmapradīpa of Guṇākara

Kāmaprabodha of Vyāsajanārdana. Composed under the patronage of Anūpasiṃha, king of Bikaner (1674-1709 A.D.).

Kāmaprābhṛta of Keśava

Kāmaśāstra—ascribed to Nāgārjuna. Drawn upon by Svarūpa in his Kāmaśāstra.

Kāmaśāstra—compilation of parts of different works. It contains many pictures.

Kāmasarvasva—mentioned in the *Sañjīvanī* comm. on the *Gītagovinda*

Kāmasāra of Kāmadeva.

Kāmasūtra of Ghoḍayamuha—mentioned in the *Aupapatika* (41) and *Nāndisūtra.*

Kāmānuśāsana

Kāminikāma-kautuka of Kṛśṇakānta Vidyāvāgīsa Bhattacharya, a typically Bengali name.

Natyasastra and Almkarasastra

In the following works, there are descriptions of erotic gestures and feelings of the hero and the heroine, particularly of the latter :

Nāṭyaśāstra of Bharata (C. earlier than 4th. or 5th. cent. A.D.).

Sāhityadarpaṇa of Viśvanātha (C. 1st half of 14th. cent.).

Daśarūpaka of Dhanañjaya (1st, quarter of the 10th. cent.).

Rasārṇava-sudhākara of Siṃhabhūpāla who was perhaps indentical with Siṁgama Nāyaḍu, king of Veṅkaṭagiri-1st half of 14th. cent.).

We shall deal briefly with the various matters in connexion with sex-life.

Prostitution

Vātsyāyana has dealt exhaustively with courtesans. Considerable information about the enjoyment of courtesans is available in the *Kuṭṭanīmata* of Dāmodaragupta (last half of 8th. cent.), *Samayomātṛkā, Deśopadeśa* and *Kalāviāsa* of Kṣemendra (11th. cent.). It may be noted that, barring Vātsyāyana, all the writers on the subject are Kashmirian. It seems that prostitution thrived in the terrestrial heaven of Kashmir.

Chapter 24 of the aforesaid *Nāṭyaśāstra* deals with prostitution.

The *Arthaśāstra* deals with the administrative aspect of this profession.

Considerable information on sexology is recorded in various works right from the Vedic age. As we have seen earlier, the *Ṛgveda* refers to the mutual attachment of men and women, illicit sexual union etc. The word *Viśya* I. 126.5 used in this Veda, perhaps led to the use of *Veśyā* in later times. In the *Atharvaveda* (XV) there is mention of *Vrātya*, in connexion with the *Vrātya* rite.

Pāṇini (C. 4th. cent. B. C.) and Patañjali (C. 2nd cent. B. C.) refer to the destruction of foetus (*Aṣṭādhyāyī* vi. 1. 174, *Mahābhāṣya* vi. 4. 174). The object was, perhaps, to destroy an illegitimate issue. Patañjali uses the word *strīkitava* (i. 1. 40) ; it means abduction of women.

The *Rāmāyaṇa* and the *Mahābhārata* reveal sex-life, as we have noticed already.

The various Purāṇas testify to vulgar practices in sex-life. In the *Agnipurāna* (227. 36. 50-54) among the offences punishable with death are mentioned adultery of a man of a lower caste with a woman of a higher one, seducing the queen etc.

In Smṛtiśāstra, expiation and punishment are ordained for illicit sexual relation. Unnatural sexual union, *e.g.* with an animal, appears to have been practised by some. Abduction of women is mentioned among the eighteen titles of dispute.

In Tantra, sexual enjoyment is one of the five means of *Sādhana*. Tantra appears to approve the kind of sexual union

7

condemned in *Smṛti*. But, it is erroneous to presume that Tantra allows unrestrained lecherous practices. Though this Śāstra favours liberation (*mukti*) through enjoyment (*bhukti*), yet it clearly directs the devotee to practise self-restraint.

Various prose, poetical and dramatic works refer to unrestrained sex-life. In the *Kautuka-ratnākara* of Kavitārkika (16th. cent.) a Brāhmaṇa is abducting the queen. In the *Dhūrtanartaka* of Sāmarāja Dikṣita (17th. cent.) an ascetic has fallen in love with a dancing girl. In the *Avimāraka* of Bhāsa, a prince, in the guise of a sheep-killer, has fallen in love with a princess of another land. The dramas of Kālidāsa deal with the erotic sentiment. A part of the themes of the *Nāṭikās* like the *Ratnāvalī* is the king's attachment to another woman. The *Kathāsarit-sāgara* contains many stories about illicit sexual union and the consequent misery.

The prose romances *Daśakumāra-carita, Kādambari* and *Vāsavadattā* deal with romantic love.

In the society of classical Sanskrit literature, particularly in the royal palace, we find courtesans and disguised prostitutes moving about. In the dramas, prostitutes appear in different ways. In the *Mṛcchakaṭika*, the courtesan, Vasantasenā, is a noble woman. In the *Caturbhāṇī*, prostitutes of a lower order are found. In the *Laṭakamelaka* of Śaṃkhadhara (C. 12th. cent.) the old Danturā is found to conduct the business through her young daughter, Madanamañjarī. In the *Dhūrtasamāgama* of Kaviśekhara (14th. cent) the mendicant Viśvanagara is in love with the prostitute Anangasenā, Much information is available in Gopīnātha's *Kautuka-sarvasa*, Mahendravikrama's *Mattavilāsa* etc.

In anthologies like the *Sadukti-karṇāmṛta* many verses dealing with prostitutes and their enjoyment have been quoted.

Prostitution has been dealt with in some Pāli works, particularly Jātakas. The *Therīgāthā* deserves mention in this connextion.

The subject is treated in the *Karpūramañjari, Karakaṇḍacariū, Bhavisayatta-kahā* etc.

The *Sattasaī* of Hāla refers to illicit sex-relations.

CHAPTER XXIV

SEXUAL LIFE

Prostitution, included in sex-life, has been dealt with separately. At present, the main aspects of sexual life in ancient Indian society will be discussed. Our principal source of information is Vātsyāyana's *Kāmasūtra*.

In the chapter on offences and offenders an outline of sex-life from the Vedic age to the classical times has been given.

Vedic Age

In the *Ṛgveda* (x. 40.2) we find the brother-in-law intimately connected with the widowed wife of his brother in an immoral way. An exciting instance of illicit sex-relation in the Rv. (x. 61.5-7) is intercourse of Rudra with his daughter, Uṣas. We have reference (x. 162.5) to incestual sex-relation between the brother and the sister as a result of which the sister conceives. Certain similes have been enlivened by introducing sexual matters. In I. 124.7 it is stated that Uṣas lays bare her body as a woman does to her lover. In I-92.4 the same goddess is said to exhibit her body as a dancing girl bares her bosom to attract the attention of all. In x. 86 the role of a woman in coition is stated. At one place (I. 26.7) there is description of the female organ. The words *jāra* (paramour) and *jāriṇī* (concubine) in I. 66.4, V. 38-4 testify to the influence of the sex-impulse.

In that age, there was the practice of destroying illegitimate children (II. 29.1, VII. 46.24). In the Vedic society, we find women proceeding to the place of tryst and passionate women seeking the company of men for money (I. 24.7).

There is prayer for augmenting the procreative capacity of men. The word *Śiśnadeva* occurs in the Rv. It may mean either one who plays with one's genital organ, *i.e.* satisfies the sex-impulse or one whose deity is the phallus.

The *Atharvaveda* refers (viii. 6.7) to incestual relation between father and daughter and brother and sister. It mentions women keaping the tryst. There are references to charms and things for increasing man's sexual vigour (*Kauśika-sūtra* 40.14 Av. iv. 4).

An instance of the impact of sex-life on the Veda is furnished by the conception of Mahānagnī (the great naked woman) in the Av. (xiv. 1.36, xx. 136.5) ; Rv. (Khila v. 22.6). There is a reference also to Mahānagna (the great naked man) who enjoys Mahānagnī.

Age of Brahmanas

The *Śatapatha* contains (xiii. 2.9.8.) the words *āryajārā śūdrā*. It seems that men of higher castes used to keep *Śūdra* women as concubines.

A glaring example of improper sexual desire is Prajāpati's wish for union with his own daughter. Versions of this legend occur in the *Śatapatha* (i. 2.5.15-16). The fire-altar has been fancied as a *Yoṣā* or female. At one place, the altar has been conceived as a female organ and the kindling of fire as the procreation of issues.

Upanisad

In the *Bṛhadāraṇyaka* (vi. 2-12 etc.) the woman is fancied as sacrificial fire and sexual union as the sacrificial act. But, partiality towards males is obvious in vi. 4.6.7. where it is stated that an unwilling woman must be compelled to allow herself to be enjoyed.

Age of Sutras

In it we find references to paramours (*Bharadvāja-gṛhya*, ii. 28.61.4), illegitimate child (*Śānkhāyana-gṛhya* iii. 13.5), pre-marital conception (*Gautama-dharma sūtra* xviii. 34) etc.

Patanjali

The *Mahābhāṣya* hints (vi. 1.2) at the easy morals of the wives of actors. Conception before marriage (iv. 1.116), destruction of foetus (vi. 4.174) etc. are also mentioned.

The Ramayana, Mahabharata

In the *Rāmāyaṇa,* there is reference to the Rākṣasa and Paiśāca forms of marriage. In the former, the girl was forcibly carried away and married. In the second, the girl was enjoyed in sleep and then married.

The passionate Śūrpaṇakhā sought the love of Rāma and Lakṣmaṇa. Even gods were not free from this propensity. Indra himself enjoyed Ahalyā, wife of sage Gautama, in his absence. The epic mentions the appointment of women for the service of the soldiers.

The *Mahābhārata* testifies to the free enjoyment of Śūdra women by the members of the upper classes. The best example of a girl's premarital sexual union is Kuntī's son Karṇa born in her maidenhood. The Ādiparvan tells us that women could freely enjoy themselves with men except at their monthly periods. A kind of sons was called *Praṇīta* ; he was begotten on a married woman by a person other than her husband. The very designation of *Svairiṇīja* son conveys the manner of his birth. The son, called *Jñātireta,* was begotten on a woman by a kinsman excepting the brother of her husband.

There are many instances of a householder's having sexual enjoyment with his female slave or servant (*e.g.* Virāṭa 15, 16 ; Sabhā 71.3, Ādi. 106.24). In this manner was born Vidura. What is surprising is that sometimes the wife acquiesced in such an act. Rich people had women in their keeping. During the pregnancy of Gāndhārī a Vaiśya woman used to live with *Dhṛta-rāśṭra.* A person, named Yuyutsu, was born out of their union (Ādi. 115.41-43).

There was the custom of one begetting a child on the wife of another. Uddālaka had his son, Śvetaketu, begotten on his wife by his disciple (Śānti 35.22).

We are told that it was nothing wrong for a man to enjoy a willing woman unless she belonged to a prohibited caste (Ādi 78.33).

An instance of natural attachment of a woman to a man is furnished by Hiḍimbā who was attached to Bhīma.

From the legend of Dīrghatamas (I. 104) it seems that sometimes sexual enjoyments were free ; the nuptial tie was not always there. That sage is said to have enjoyed Sudeṣṇā, the queen, at the wish of the king and, as a result, there were five issues. Enjoyment of her *Śūdra* attendant also led to the birth of many issues.

It is stated (I. 122) that, at one time, even married women, instead of accepting the guardianship of their husbands or anybody else, used freely to associate with other men; such an act was not regarded as sinful. From II. 26, 32.40; xii, 102, 26 etc. it seems that, in those times, there was no marriage-tie at all; men and women used to be united at mutual will. From VIII. 40 it appears that free sex-unions were current among some tribes.

The epics make it clear that men and women, belonging to different cultures, also were attracted to one another. This is seen even between gods and human beings. The Sun-god was passionate towards Kuntī.

In the *Mahābhārata*, we find certain customs which are reprehensible according to modern standards. One such practice was to offer one's own wife for the enjoyment of another. King Mitrasaha is said to have offered his wife to Vaśiṣṭha (XII. 234.32, XIII. 137.18). Vṛṣādarbhi gave his wife for the enjoyment of Yuvanāśva (XII. 234-35).

For the enjoyment of an honoured guest one's wife was temporarily or permanently offered (V. 85. 13, 14; 86.8).

Yudhiṣṭhira used to maintain a large number of beautiful, well-dressed female slaves, experienced in various arts, for the entertainment of Brāhmaṇas, ministers, kings etc. (II 61.8 onward).

Incidentally it may be noted that the practice of entertaining guests by the host's daughter or wife prevailed in many countries of the world.[1]

Puranic Age

The seduction by Soma of his preceptor's wife, Tārā, the birth of Bharadvāja as a result of the union of Budha and Ilā etc. point to laxity in the sexual life of this age.

---

[1] Vide Mclenman, *Primitive Marriage*, p. 96.

Smrtisastra

According to Manu (ix. 94), a man of thirty years of age should marry a girl of twelve or a man of twenty-four should marry a girl of eight. In the case of a woman, no fixed age is intended; the above is merely a limit. In the Dharmasūtra of Gṛhyasūtra etc., a *nagnikā* is commendable in marriage; it means a girl before the commencement of the menstrual flow. According to the *Gautama-dharmasūtra* (xviii. 20-23), a girl be married before this. Manu (ix. 4) also appears to intend the same rule according to Kullūka's commentary.

Fornication, homosexuality, sexual relation of a man with a female animal, adultery—these occur in Smṛti.

Yāj. states twelve kinds of sons (ii. 8.128, 132). Among them are *Kṣetraja, i.e* a son begotten by one on the wife of another, Gūḍhaja (begotten by a man on a woman in the absence of her husband); *Sahoḍhaja* (son of a woman who was pregnant before marriage). These indicate moral laxity of the age concerned.

In the *Manu-smṛti* (iii. 21) and some other works, there are eight forms of marriage of which *Rākṣasa, Paiśāca* and *Gāndharva* are condemned. The most hated is the *Paiśāca* in which a girl is enjoyed when she is asleep or intoxicated and then married.

Kamasutra

The work by Vātsyāyana is in seven sections called *Adhikaraṇas*[1].

Section I refers to 64 arts of which the following are important and should be learnt by women; music, dance, paintings, literature, acting, magic, dice-playing, youthful games, knowledge about fragrant substances, flowers, jewels etc., needle-work, gardening, house-decoration, making beds and carpets, making garlands and necklaces etc., dyeing of teeth, nails, hair and garments, preparation of delicious drinks, making baskets etc; making things with clay and metals etc.

---

[1] There is difference in the order of the sections in different editions.

Besides the above, 64 *Kāmakalās* (erotic arts) are also mentioned.

According to *Vātsyāyana,* the following women are fit for enjoyment : a woman of a high or low caste, married woman, *punarbhū* (remarried widow) etc. He refers to the easy morals of the following : a female ascetic, actress, craftswoman, a village damsel belonging to the labourer class (V. 5.5-7). As regards widows, it seems that they were allowed to have sexual enjoyment with their chosen partners (I. 5.7, IV. 2-39-59).

Section II, called *Sāṃprayogika,*[1] discusses various modes of sexual enjoyment according to age, desire, temperament, duration, degrees of pleasure etc. Incidentally have been discussed the modes of satisfaction of women belonging to different regions (II. 5. 20-34). Unnatural modes of sexual enjoyment have also been discussed (II. 9). There is reference (II. 7.23) to the physical injury of a woman caused by her partner due to excessive passion. We shall refer to just two modes of unnatural sexual gratification. One is *sanghāṭaka*[2] (II. vi. 40, 42). In it three persons are involved in amorous action or intercourse. The other is *Goyūthika* (II. vi. 41-42). In it one man is engaged in sex-act simultaneously with more than two women or one woman is engaged with more than two men.

Vātsyāyana mentions oral congress, *e.g. Kākila* in which there is mutual action of the partners. The *Kāmaśāstra* writers, of course, condeman extra-vaginal and *Vimārga* (artificial) coitus.

In the third section, called *Kanyā-saṃprayuktaka,* there is discussion about courtship, marriage etc. Having mentioned the different kinds of girls, unfit for marriage, the author holds that, in selecting a bride, the man's like or dislike is the final criterion. He says how one should woo a girl of mature and immature age before and after marriage. It seems that the strict injunction of Smṛti works to marry a girl before puberty was not always observed. According to Vātsyāyana, the age of the bride should be three or more years less than that of the groom. In order to attract the mind of the girl, the lover should behave neither favourably nor unfavourably with her directly. A man should not be too familiar or devoted to her. The man should not be excessively grave either.

---

[1] *Samprayoga* means sexual intercourse. In this sense, the word *abhimardana* is also used in the *Divyavadana.* The word *avamardana* has also been used at places.

[2] It occurs also in the *Ratirahasya,* x. 41.

Of all the forms of marriage, Gāndharva is regarded as the best; because it is the result of mutual consent and is performed easily. The author appears to have believed in free love.

The fourth section, called *Bhāryādhikarika*, discusses the conduct of a married woman, particularly in respect of her husband and co-wife. The author has given rules designed to build up a beautiful happy conjugal life. A married woman sometimes appears to have been unhappy due to the vogue of polyandry and the existence of paramours (III. 4-55-56). The author characterises the wife as *durbhagā* (unfortunate) if, though chaste, she is neglected. His advice to such a woman is—make the best of what you have.

In the fifth section, called *Paradārika,* there is discussion about the inconvenience, danger and future consequences of adultery. Although mutual attraction between a beautiful woman and a handsome man is usual, yet before proceeding one should carefully examine the present and future circumstances and study the mind and conduct of the other side. The author has described the women easy or difficult to obtain, and a man who can or cannot win over the heart of another's wife. He has also given direction regarding the method of examining the mind of another's wife, making a proposal to her directly or through a medium etc. He has, however, sounded a note of warning about the fickleness of human mind (V. 3.6) and the danger involved in simultaneously trying to win over the heart of more women than one (V. 2.25). The author forbids a woman to declare her love directly to a man of position who has more wives than one or is attached to prostitutes. In such a case, various tactics and the help of others are necessary. The wives of some such adulterous persons have their sexual desire unsatisfied. They try to satisfy their desire by secret lovers, artificial phallus and various other bad things (V. 6.1-3). The author refers to a woman enjoying with her husband's brother or even her step-son (5.1.52, 6.36).

It is interesting to note that Vātsyāyana, refers to circumcission which is known to have been in vogue in the Deccan ; it prevails among the Muslims even today.

In the *Ratiśāstra* (ed. A. Ghosh) adultery has been severely condemned.

The contents of the sixth section, called *Vaiśika* have been briefly discussed in connexion with prostitution.

The seventh chapter, called *Aupaniṣadika*, discusses, *inter alia,* the methods of perpetuating youth, increasing physical charm, keeping men and women under control, increasing sexual vigour, exciting passion, use of artificial things for the satisfaction of carnal desire. There is provision for the temporary marriage of a prostitute. Such a marriage used to last for one year. A man could keep a prostitute even after this limit if he so desired. In the *Śṛṅgārabhūṣaṇa* and some other one-act plays of South India, the document of such a marriage is called *Kalatrapatrikā*.

Different classes of men and women

A man is of three classes according to the dimension of their organs. They are *Śaśaka, Vṛṣa* and *Aśva*. Elsewhere the *Mṛga* class of men has also been mentioned. Women also are of three types—*Mṛgī*, *Vaḍavā*, *Hastinī* (*Kāma S*. Sāmprayogika I. 1). The enjoyment of women in the above order is of increasing pleasure. Elsewhere women are divided into four classes, *i.e. Padmini, Citriṇi Śaṇkhinī* and *Hastinī*. According to the *Ratiśastra,* the characteristics of their sex-life are as follows. *Padminī* is devoted to her husband. *Citrinī* does not desire sexual union with another man and is satisfied with a little intercourse. *Śaṅkhinī* is consumed with the fire of passion, and wants to be satisfied by a man other than her husband. *Hastinī* shamelessly enjoys herself with another man.

The following pairs are commendable :

Padminī—Śaśaka
Citriṇī—Mṛga
Śaṅkhini—Vṛṣa
Hastinī—Aśva

Time permitted or prohibited for sexul enjoyment

Intercourse is injurious for one's health and that of the progeny at the following times and days : daytime, first three watches of the night, morning, new moon, full moon, festive occasion, first four nights from menstruation, eleventh and thirteenth nights, on the eve of departure for a place, Intercourse in the first three nights from mensturation may harm the health of the husband and produce a deformed or short-lived son. It is stated that, at that time, the flow of blood in a woman becomes rapid, and the semen of the husband does not enter copiously into the womb of the wife.

Also harmful is intercourse when the partners are sick or have a disturbed mind.

Intercourse is harmful when the foetus is developed. It is forbidden with a pregnant woman.

Coition with a woman before her maturity may produce an issue who is sick and short-lived. There may not be any more issue.

For a man, desiring issues, the first sixteen nights after menstruation are commendable. According to some modern sexologists, the following period is called safe for those who do not want issues.

Good and bad signs of women

According to signs, women are divided into three classes in the *Ratiśāstra.* These are *Uttama* (best), *Madhyama* (medium) and *Adhama* (worst). A woman of the first class is as follows : not very tall nor very short, bright-complexioned, slim, moving like an elephant, like a lotus, having red palms, pious, having breasts of a medium size. A woman of the second class is as follows : having long flowing hair, devoid of idleness, firm-minded, indifferent to pleasure and pain, having a smiling face, deep navel, sweet-tongued, neat and clean, pious, small eater, loving all creatures, respectful to superiors. A woman of the worst type is as follows : thin hands and feet, hairy body, bluish yellow eyes, long teeth, garrulous, laughing loudly, rough skin, large belly, shameless, ill-tempered, unsteady mind, long hands and feet, short hair, devoid of feminine feelings.

Practices prohibited in monthly periods

The following practices are prohibited : crying loudly, talking too much, laughing loudly, hearing a rough sound, hard labour ; these practices may pollute the blood and lead to various diseases. As a result of obstructing motions and urine, fast, cohabitation etc. during this period the following diseases may be caused : Metrorhagia, Leucorrhoea, Dismenarrhoea, Hysteria etc.

Rules and regulations about the moulding of the shape and nature of children yet unborn

The *Ratiśāstra* discusses how the conduct of the husband and wife is responsible for the moulding of the nature of their children.

The son of a *Padminī* and *Śaśaka* becomes pious, and their daughter pure-minded. The son of the union of Citriṇī and Mṛga becomes beautiful like a Gandharva and daughter like a nymph. The son of a *Śaṅkhinī* and *Vṛsa* becomes a famous fighter and the daughter a demoness. The son of a *Hastinī* and *Aśva* becomes strong like a demon and the daughter extremely passionate.

If a *Hastinī* conceives in what is called *Mahendrakṣaṇa*, her son becomes god-like and possessed of the signs of a *Saśaka* type of man. If a *Śaṅkhinī* conceives during the ascendancy of Varuṇa or Śatabhiṣā star, her son or daughter becomes extremely lucky. If a son be born to a pair of *Citriṇī* and *Mṛga* in an inauspicious moment, he becomes very poor. The son of a *Padminī* and *Śaśaka* becomes pious and learned.

Sexology in Ayurveda

The vast Āyurveda contains information about sexology. A brief account is given below.

It is not correct to think that, in ancient times, all used to support unrestricted child-birth and that contraception was unknown.

Some methods for contraception, stopping of the menstrual flow, helping menstrual flow, abortion etc. are as follows.

A drink of milk with the following in the monthly period prevents conception : *pipul*, *viḍanga*, firied *sohāgā*[1]. Similar is the result if a woman in her period takes for three days *Javā*-flowers crushed with Kāñjī and then takes eight *tolās* of old molasses (*Bhāvaprakāśa*, 32, 33).

After bath following the monthly impurity a woman may take the paste of *Ākanda* leaves crushed in water to avoid pregnancy.

Āmalakī, bark of *Arjuna*, *Harītakī*—the powder of these in equal quantity may be taken with water by a woman in her monthly impurity in order to stop the menstural flow and thereby prevent pregnancy. A cake, mixed with the leaf of *Cālte*, also produces the same result.

Rasāñjana, *Harītakī*, *Āmalakī*—the powder of these may be taken with water for preventing regular menstruation and thus stopping pregnancy.

As there are prescriptions for stopping menstruation, so there are means of causing the menstrual flow. (*Bhaiṣajya-ratnāvalī*—Yoniryapadadhikāra).

Ikṣvāku-bīja, *Dantimāla*, *Pippala*, molasses, *Madana* fruit, *Yuvābīja*, *Yaṣṭimadhu*—these are to be crushed and made into a paste with the milk of *Manasā* and tablets formed. This tablet, if put into the vagina, releases menstrual flow.

The eating of a cake of grass and rice releases the flow. (Cakradatta—*Yonivyāpada-cikitsā*, 18-19)

One *ratti* of the juice of Triyoni, three *niṣkas* (=12 *māṣās*) of the powder of *Harītakī*, mixed with molasses, may be taken and then the drinking of one *pala* of water in which sesamum is soaked—this causes menstrual flow. After taking medicine one should drink cold water—this causes immediate flow.

The root of *Lāṅgalī* or of *Apāmārga* may release the flow.

Drinking of the decoction of sesamum roots with the root of *Vāmunhāṭī*, *Yaṣṭimadhu* and the powder of *Trikaṭu* produces immediate effect in the obstruction of menstrual flow and what is called *Raktāgulma* (*Rasaratna-samuccaya*—chip. 25. 81-85).

---

[1] We prefer the original words used in the works.

Nāgārjuna says that intercourse with the root of *Dhattura,* uprooted in the fourteenth night of the dark fortnight tied round the waist of the male will not cause pregnancy even after the discharge of semen.

By putting crushed root of *Dhattura* into the vagina one can avoid pregnancy. If there is pregnancy at the time of monthly impurity, one can put into the vagina sesamum oil, mixed with rock-salt, to get the semen out of the womb and to cause the menstural flow.

Immediate abortion is effected by drinking water with which two *tolās* of the crushed root of *Dhattura* grown in a temple have been mixed.

Immediate abortion of a four-month old pregnancy is secured by inserting an *Eraṇḍa* stalk, eight fingers in length, into the vagina.

Quick abortion is caused by drinking two *tolās* of a mixture of *Nisindā* juice, the pulverised roots of Citā and honey.

If there be excessive hæmorrhage after abortion, relief is possible by drinking two *tolās* of the mixture of the crushed root of *Śarapuṃkhā*, water with which rice has been washed. (*Rasaratna samuccaya*—chap. 25, verses 88 94).

There are glimpses of Genetics in the *Bṛhadāraṇyaka Upaniṣad* (vi. 4. 13-18). It is, however, difficult to say whether or not the methods, prescribed in it, have any scientific basis. The methods are as follows :

A woman having bathed after the period, should husk rice. In order to ensure sons of different characteristics, that rice shall be cooked with milk and ghee, curd and ghee or with water and ghee. Then the husband and the wife shall partake of it. We understand this much that the thinkers of those times used to think as to how to mould the nature of the issues yet unborn.

The general rule is that a son, born as a result of a woman's union with her husband on the fourth day of menstruation, will take after the man whom she first sees after bath. Intercourse on the even days from menstruation results in the birth of a son, and on odd days it produces a daughter.

Sexual enjoyment in Tantra

Five things (*pañcatattva*) are required for Tāntric *Sādhana.* One of them is sexual union. Generally an initiated woman is fit for it. At first, she should be subjected to *abhiṣeka* (consecration) and then enjoyed as a part of *Sādhana.* According to the *Mahānirvāṇa* (VI. 14, 20) and some other Tantras, the *Sādhaka* may use, besides his wife, the wife of another man. According to an authority, quoted in the *Prāṇatoṣinī,* one *Sādhaka* should accept only one *Śakti* (female partner).

Some important Tāntric rites centre round the female organ. One such rite is called *Latā-sādhana* or *Bhagayoga.*

One topic of Tantra is the control of others by means of charms and various articles. The *Kālītantra* (13th ullāsa) mentions the means of a man and a woman controlling each other. We state two such means below as specimens.

If a paste, made with the meat of a Khañjarīṭa bird and honey is applied to the female organ in her monthly period then that woman will be like a slave of the man.

Passion resides in the left side of a woman and in the right side of a man. By embracing the relevant part one can bring one's partner under control. A virgin girl is controlled by embrace etc.

Sex-life in Natyasastra and Alamkara-sastra

Besides the *Nāṭyaśāstra,* Dhanañjaya's *Deśarūpaka* also deals with dramaturgy. In some treatises on rhetoric, too, there are rules about dramaturgy. Of these, the most noteworthy is the *Sāhitya-darpaṇa.* Certain dramaturgic matters revealing the influence of sex-life are briefly as follows.

The heroines of dramas are of many types[1] which are determined by their relation with the heroes. The heroine may be the hero's own wife or the wife of another. She may even be a *Sādhāranī Strī* or courtesan. One's own wife may be *mugdhā* or inexperienced, *madhyā* or a little experienced or *pragalbhā* or fully experienced and bold. The *mugdhā* is bashful in love-matters and, though angry at the husband's attachment to another's wife, is calm. The *madhyā* is full of youthful love and having fits of swoon due to the influence of passion. If restrained. she in anger reproves the husband with the help of puns. If slightly restrained. she bursts into tears while scolding him. If unrestrained, she uses harsh speech. The *pragalbhā* is mad with passion ; she faints away at the very first embrace of the lover. If restrained, she in anger becomes grave with haughtiness and indifferent to the joy of life. If unrestrained, she intimidates the husband and even strikes him. If slightly restrained, she takes recourse to biting, ridicule and puns.

---

[1] Vide *Daśarūpaka* ii. 14 onward ; *Sāhityadarpaṇa* iii. 68 and *Rasārṇava-sudhākara* i. 94-120.

An *anyā* heroine may be another's wife or an unmarried woman.

A courtesan is skilled in arts, bold and clever. She makes love with the rich, foolish, self-willed, selfish and with eunuchs. She makes love only so long as the male has money and then severs connexion.

The relations of a heroine with the hero may be eightfold ; viz.

Svādhīnapatikā—one whose husband is absolutely under control.

Vāsakasajjā—waiting for the husband being well-dressed.

Virahotkaṇṭhitā—afflicted by the unwilling separation from the husband.

Khaṇḍitā—angry at the sight of marks of nails and teeth of another woman on the body of her husband.

Kalahāntaritā—separated by a quarrel from the husband and repentent.

Vipralabdhā—deceived by the absence of the lover at the place of assignation fixed by herself.

Proṣitapriyā—one whose husband is abroad.

Abhisārikā—one who finds out the husband or asks him to be united with her at any of the following places : ruins of a temple, garden, house of a female messenger, cemetery, riverbank, a dark spot.

---

1. *Nāṭyaśāstra* xxii. 197-206 *Daśarūpaka* ii. 22-25. *Sāhityadarpaṇa* iii 86. *Rasārṇava-sudhākava* i. 121-51.

Behaviour-patterns[1] of the heroine are mentioned. These are as follows—

Bhāva—the first agitation in the unagitated mind.

Uāva—movements of the brows and eyes etc. indicating the desire for union.

Bright manifestations of youth and passion, brightness due to the appearance of love, very great grace, sweetness in all conditions, fearlessness, politeness and patience.

Līlā—imitation of the conduct or speech of the lover.

Vilāsa—movement following the arrival of the lover, change of seat and of the movements of the face, eyes etc.

Vicchitti—placing of ornaments according to personal taste in order to enhance own charm.

Vibboka—disregard of the desired thing out of great pride.

Kilakiñcita—smile at the union with the lover, dry weeping, laughter, timidity, anger and labour, all combined.

Moṭṭāyita—expression of agitation by the scratching of ears etc. on hearing about the lover.

Kuṭṭamita—pretending anger by shaking the head and hands even when there is joy on arcount of the lover's catching the hair, breasts, lips etc.

Vibhrama—placing ornaments at wrong places due to flurry at the arrival of the lover.

Lalita—making the limbs graceful.

Mada—agitation due to fortune, youth etc.

Vikṛta—silence due to bashfulness even at the time of utterance.

Tapana—activity due to the influence of love at the separation of the lover.

Maugdhya—feigned ignorance and ignorance before the lover and query about a matter though it is understood.

---

[1] *Nāṭyaśāstra* xxii. 4-29. *Daśarūpaka* ii. 28-39. *Sāhityadarpaṇa* iii. 103 onward.

8

Vikṣepa—placing half the ornaments before the lover vainly looking at him and telling a secret.

Kutūhala—restlessness at the sight of a beautiful thing.

Hasita—vain laughter due to the dawning of youth.

Cakita—being startled without any reason before the lover.

Keli—sports with the lover in a pleasure-spot.

Besides the above, there is description of the different ways of expressing love. There is mention of various modes of expression from the bashful expression by an unmarried girl to shameless obtrusion.

INFLUENCE OF SEX-IMPULSE ON SANSKRIT LITERATURE

Various poetical, dramatic and prose works deal with erotic themes. In some works, episodes contain erotic matters, in others there are incidental references to sex-life. We shall deal briefly with sex-life as revealed in the important works.

The erotic motif is the main theme of many lyrics. The most noteworthy of such lyrics is the *Gītagovinda*. In it, Rādhā is the object of Kṛṣṇa's love, the cloudy sky, the forest darkened by Tamāla trees and the bank of the Yamunā are the excitants. Their secret sports (*rahaḥ keli*) naturally have a sex appeal. Hari, embraced by the cowherd woman with plump breasts, her kissing the lover, Kṛṣṇa's invituation to Rādhā to go to the dark bower—all this indicates enjoyment of the male and the female.

The very title of Bilhaṇa's *Caurī-surata-pañcāśikā* hints at the erotic sentiment. The clandestine love of the poet and the princess is the subject-matter of the poem.

In Kālidāsa's *Meghadūta*, the banished Yakṣa sends the cloud-messenger to his beloved. He does not take into account the fact that the cloud, a conglomeration of smoke, fire, water and wind, is insentient; the passionate ones are naturally averse to the distinction between the animate and the inanimate. He remembers the love-sports enjoyed by him with his beloved. He is eager to see his beloved. But, alas, when he seeks union in dream his sleep leaves him. When he wants to see her in a picture, his eyes are blurred by tears. He finds the likeness of her slim figure in a creeper, of her eyes in those of a deer, dancing eye-brows in the slender ripples of the river. But, there is not a single object in which he can find the similarity of her entire figure. The solicitude for union is deep, because he knows the pleasure of it.

Dhoyī's *Pavanadūta* deals with the sending by Lakṣmaṇasena, king of Bengal, of the wind as messenger to his beloved.

The *Amaruśataka* contains a collection of verses full of the erotic sentiment. These describe the various mental states of the lover and the beloved.

Bhartṛhari's *Śṛṅgāra-śataka* contains erotic verses.

Govardhana, a court-poet of Lakṣmaṇasena, wrote the *Āryāsaptaśatī* probably on the model of Hāla's *Sattasaī*. Its verses contain the erotic sentiment.

The *Ṛtusaṃhāra,* ascribed to Kālidāsa, describes the six seasons with the lover's eyes. Summer sets at rest the erotic feelings (*Upśānta-manmatha*), the rainy season, coming with a loud trumpet like a king, is a favourite of the passionate people, the autumn-damsel is beautiful like a new bride, the dewy season with the lotuses closed and the dew falling, is inducing women to sexual union. The winter excites great passion and is dear to women. The spring-fighter with the arrow of mango-blossoms and the bow-string of bees has arrived to pierce the heart of the person indulging in sexual union.

In the opening verse of the *Śṛṅgāra-rasāṣṭaka*, ascribed in the above poet, it is stated that those who regard *mokṣa* (salvation) as an attributeless state in which pleasure and pain are unknown, are dull-witted. According to the poet, real *mokṣa* consists in the *mokṣa* (untying)of of the waist-knot of a woman with eyes rendered beautiful by intoxication.

In the opening verse of the *Śṛṅgāra-tilaka*, also ascribed to Kālidāsa, the poet says that God has created the tank in the form of a woman for the bath of one burnt with the fire of passion—in it her arms are lotus-stalks, the face is lotus, physical charm is water, the buttocks are stairs, the eyes are *Saphari* fish, the breasts are a pair of curlews and the hairs are mosses.

In the third canto of the *Kumāra-sambhava,* the description of the excitement of passion at the advent of Spring is, perhaps, unique. Śiva, immersed in meditation, is firm and motionless. At this time arrives Spring opposed to meditation in penance. The sages restrained their mind with difficulty. There appeared the flower-bowed Cupid with his consort, Rati. All creatures, high and low, indicated the rise of passion by their activities. The drone, following its beloved, drank honey from the same flower-vessel with her. The deer, with its horns, scratched the body of his beloved who, at the pleasant touch of the lover, closed her eyes. The female elephant took a trunkful of water fragrant with lotus, and gave it to her male partner out of affection. The curlew made his consort eat a piece of lotus-stalk half-chewed by it. A singing Kinnara began to kiss the face of his beloved at intervals. The row of trees was entwined by the embrace of their creeper-wives. The flower-bunches of the creepers were like breasts and their new leaves like lips.

There came Umā full of wonderful grace. Just then Cupid shot his flower-arrow towards Śiva. Meanwhile she put a garland round Śiva's neck. Even the lord of Yogins, absorbed in meditation, felt perturbed. It was like the agitation of an ocean in flood-tide at moon-rise.

In the *Raghuvaṃśa* (iv), when *Indumatī* entered the assembly for self-choice, the princes assembled there betrayed various erotic gestures and feelings. One began to turn round a stalk of a pleasure-lotus in his hand. Another started scratching the pedestal with his toes.

The *Śiśupālavadha* of Māgha, while describing the army on the march, relates how courtesans prepare themselve for receiving men, and Yādavas, instead of going to the battlefield, walk with charming women in the forest.

The *Naiṣadha-carita* of Śrī Harṣa describes Nala's pleasures with Damayantī.

In the *Vikramāṅkadevacarita* Bilhaṇa describes at length the amorous pleasure of the Cālukyā king Vilaramāditya VI.

Bhartṛhari's *Śṛṅgārаśataka,* in advocating the hollowness of sensual pleasures, describes the pleasure.

In anthologies like the *Sadukti-karṇāmṛta*, many verses on sex-life, particularly on prostitutes, have been quoted.

Many dramas contain erotic themes or episodes. In the *Abhijñānaśakuntalā,* the king and Śakuntalā at the sight of each other, are mutually attracted ; this indicates passion stimulated by youthful urge. At first sight, one has the excitement of passion and not disciplined love. Śakuntalā creates an opportunity to look at the king on the plea that her foot has been pricked by *Kuśa grass.* Although she does not mix words with those of the king, yet when the latter speaks she listens with rapt attention. The king, too, is spell-bound at the sight of youthful charm, attractive like flowers, on her body. Mutual solicitude then fosters love in the heart of both. The result is the fire of love. Unable to tarry, she sends a love-letter to him. Their courtship leads to their Gāndharva marriage.

In the fifth act, the king is charmed by the spotless beauty of Śakuntalā, though unable to recognise her. But, another's wife is not to be looked at minutely. The king does not like to be defiled by the touch of another man's wife. Her beauty irresistibly attracts him. Yet, he cannot either accept or reject her even as a bee cannot discard a jasmine, filled with dew-drops, nor sit on it.

In the *Mṛcchakaṭika*, we find the passionate Śakāra, Śarvilaka etc. absolutely overcome by the sex-impulse. Śakāra is attached to Vasanta-senā, and Śarvilaka, through a Brāhmṇa, to her slave, Madanikā.

The dramas of Harṣa, *Ratnāvalī* and *Priyadarśikā*, the *Viddhaśālabhañjikā* of Rājaśekhara all deal with love.

Erotic themes, particularly sex-enjoyments, have been dealt with in the four one-act plays collectively known as *Caturbhāṇī*. We have dealt with these works under prostitution.

The *Kādambarī* of Bāṇabhatta and the *Vāsavadattā* of Subandhu have love as the dominant sentiment. The *Daśa-kumāra-carita* of Daṇḍin also should be mentioned in this connection.

Even the Jainas, who upheld ascetic morality, could not shake off erotic influence in their poetical productions. S. K. De, in his *History* of *Sanskrit Literature*, points out that erotic sports are zealously described by Jaina monks including the renowned Hemacandra. Vastupāla devotes an entire canto to erotic descriptions is his Mahākāvya.

The austere Buddhist, Aśvaghoṣa, whose *Buddhacarita* and *Saundarananda* are meant for edification, describes sex-acts

The erotic matters, dealt with in Sanskrit and Prākrit works are broadly as follows. Love in union and in separation has been depicted. Erotic feelings and gestures have been described in some works. Some kings who are already married are shown as seeking the hands of young women. Clandestine love and enjoyment of prostitutes have been described in certain works. Another feature of the erotic content of Sanskrit literature is the description of female beauty, particularly of a woman's breasts. The side-glances of women, ruddy lips, fleshy buttocks, beautiful thingh, etc. have also been described in some works. The amorous sports of women and men are also described . The pleasure of sexual enjoyment has been chosen as a theme by certain authors. The coquetry and dalliances of women, particularly of prostitutes and the various attempts of the latter to attract men have been dwelt upon in some works. Love at first sight and love-sickness are common themes. Embrace, kiss, lover's nailmarks and tooth marks on the beloved's body etc. are frequently referred to. As preliminaries to sexual union the loosening of the woman's garment (*nīvī-mokṣa*) and the removal of the girdle (*mekhalā*) etc. are often described. *Puruṣāyita* or *Viparīta-rati* (woman-superior position) is sometimes referred to *e.g.* Bhartṛhari's *Śṛngāra-śataka*, 26 and commentry, *Gīta-Govinda*. (II. 6.6).

Varieties of sex-union are referred to in certain works (*e.g. Kumārasambhava* viii. 19, 89), *Raghuvaṃśa* (XIX 25) and commentary, *Naiṣadha* xviii. 15.

In considering the influence of sex-impulse on Sanskrit literature we should bear in mind the milieu in which the literature was born and developed. Court literature, as the very name implies, was nurtured in the environment of the court. The erotic Science, typified by the work of *Vātsyāyana* exercised a profound influence on the court-life and, through it, the court-literature. The ideal *nāgaraka* (man about town) of Vātsyāyana served as a model for heroes of dramas and the principal characters of court-literature.

Difference is noticeable in the erotic representations in sculpture and in literature. While many literary works show a *penchant* for the inverse sexual union, the sculptor favours the active part of the male partner. The sculptors show a liking for representation of the oral gratification of the sex-impulse. This is not the case with literary works. The sexual enjoyment of one man simultaneously with two or more women and of one woman with two or more men, is rare in literature. There are occasional references to a king enjoying love-sports with many wives in a garden or in water. The *Gīta-govinda* and some other works, dealing with the Kṛṣṇa legend, describe Kṛṣṇa's sports with many *Gopīs*. But, the enjoyment of erotic groups, as in *saṃghātaka goyūthika* etc., is a common sculptural motif.

Another difference is that in sculpture, we find a couple being supported or otherwise helped by attendants in these sexual unions. But, such a thing is absent in court-literature.

Various erotic themes in which the dominant element is clandestine love, have been depicted is *Hāla's Gāthāsaptaśatī* in Prākrit.

The Prākrit drama, *Karpūramañjarī*, deals with an erotic theme.

The translation of a few relevant verses from the Sadukti-*karṇāmṛta* and the *Gāthāsaptaśatī* will give an idea of the secret sexual desire of the people and of the various ways of satisfying the same.

> O female neighbour, please keep an eye into my house. The father of this child often does not drink the unsavoury water of the well. I shall soon go alone to the river covered with *Tamāla* trees ; my body will be bruised by the thick reeds which are cut. *Sadukti* 541.
>
> [An unchaste woman is going to the place of assignation. She is trying to give a bluff about the future nail-marks of her lover on her body.]

O mother-in-law, if you maintain this wretched parrot, then make for it a cage in which gaps will be small. Fortunately I have not been bitten by a snake while searching for it hidden in the intervening space of the jujube trees. What shall be done with the injury-marks on the body :

Ibid. 545

[The unchaste woman wants to give a bluff that the marks on her body, caused by her lover in a tryst, are pricks of jujube-thorns]

On the sixth day I was startled to go to the forest. While I was worshipping the trees there I fell down seeing a snake coming towards me. Then as I was going away from that place in a flurry, my cloth fell down, the top-knot on the head became loose and the body bruised by thorns. Then, O friend, I could not recognise myself. So, salutation to such a *Vrata.*

Ibid. 543

[An unchaste woman is cleverly trying to conceal the marks of enjoyment by her lover.]

O mother, the lotus-bed, which is pleasure-giving and like the ornament of our village, has become like a garden of sesamum with the leaves cut off.

I live in a lonely spot on the outskirts of the village. My husband is abroad. Only my aged mother-in-law is in the house. She is old age incarnate. O traveller, this post-minority age embarrasses me. I cannot see minutely. There are many people here. Think of staying somewhere else.

Ibid. 546

[An unchaste woman cleverly invites a traveller to her own house.]

I am alone in this house, a young dependent girl. The owner of the house has gone far away. Do you want a lodging here? O foolish traveller, my wretched mother-in-law is blind and deaf.

Ibid 547

[A passionate unchaste woman hints at the golden opportunity of the traveller's meeting at her own house.]
Here lies the old mother. Here stays the too old father. Here remain all the tired female slaves. Here stay I My husband has been abroad for sometime.

[Thus, the young woman tells the traveller about her wish to meet him.]

Ibid 548

Tooth-marks are very clear, the body trembling, the face full of sweat. O lady, tell frankly that no lover has enjoyed you.

Ibid 551

[The marks of enjoyment on the body of the unchaste woman are clearly visible.]
With closed eyes, horripilation on the body you are always feeling joy in the mind. You are disdainfully casting side-glances to your husband, you are practising crooked dress, speech and art. O friend it makes me think—are you proceeding to a lover's place?

Ibid 554

[In it there is a covert hint by the beloved to her lover asking him to meet at the lonely spot. According to some, the hint is for going to the lotus tank instead of the sesamum garden; because people will go to collect sesamum, but none will go to the lotus-bed smothered by winter. According to others, it means that no spot is favourable.]

In this conexion, a few typical verses of the *Gāthā-saptaśatī* of Hāla may be translated.

He became ashamed while searching for my loose waist-knot. At once I laughed and embraced him.

Ibid. iv. 5

In the interval of sexual union, the woman, failing to find her cloth, became ashamed and prevented her shameful plight by embracing her lover.

Ibid. v. 59

Though the woman is wearing a blue cloth, do not let her off. In sexual union, even a silk cloth falls off.

Ibid. vi. 20

Nobody has seen the beauty of the entire body of that woman. One's eyes are riveted on the very spot where they fall.

Ibid. iii. 34

The paramour of a maiden is looking smilingly at the artificial *ānandapaṭa*, turned round by her female friends.

Gāthāsaptaśatī v. 57

The unchaste woman, to whom tryst is proposed under a bower, is hearing the rustling sound of the worn-out leaves trampled by your toes.

Ibid. iv. 65

The ploughman, seeing the secret way of the unchaste woman, green and long, in the sesamum field, has not been very sorry.

Ibid. vii. 93

INFLUENCE OF SEX-IMPULSE ON VAIṢṆAVA LITERATURE

In some Purāṇas, particularly in the *Viṣṇu, Padma, Brahmavaivarta, Bhāgavata* and the *Harivaṃśa*, Kṛṣṇa-Gopī sports have been elaborately described. The last work is a supplement to the *Mahābhārata*, and is of the nature of a Purāṇa. The writers have delineated the mutual attachment of Kṛṣṇa and the Gopīs. The love of Kṛṣṇa for Rādhā, the Chief Gopī, has received their greatest attention. In the *Bhāgavata*, Rādhā is not mentioned by name, but we can recognise her as the dearest of Kṛṣṇa.

The love of Kṛṣṇa and Gopī is characterised as the sports of the powerful one (*Śaktimat*) with his own energy. In the Gauḍīya sect of the Vaiṣṇavas, Kṛṣṇa appears as the lover. This love can be characterised as mystic sex-attachment to which a religious or spiritual garb has been imparted.

---

1. See Glossary.

In the Bhakti-śāstra of the Vaiṣṇavas, the erotic sentiment is called *Mādhurya* or *Madhura-rasa*. Its other name is *Ujjvala*, and stated as the greatest *Rasa*. Its importance can be gauged from the fact that an elaborate treatise, called *Ujjvala-nīlamaṇi* was composed on it.

In the *Mahābhārata*, *Bhakti* is generally stated to be like the wife's attachment to her husband. In the *Bhakti-sūtras* of Nārada and Śāṇḍilya, the synonyms of *Bhakti* are *Prīti, Bhāva, Rāga* and *Anurakti*.

Owing to erotic emotionalism, the Vāsudeva Kṛṣṇa of the *Mahābhārata* was transformed into the Kṛṣṇa of the Purāṇas.

A prominent characteristic of Bengal Vaiṣṇavism is the transformation of the strong sex-impulse into religious emotion. The *Madhura-rasa* is the culmination of the process of the religious sublimation of the erotic sentiment.

There are descriptions of erotic situations in the love-pictures of Kṛṣṇa and the Gopīs in the poetical and dramatic works. Hopkins has characterised the erotic sports of Kṛṣṇa as vulgar.[1] According to Mackenjie, these are immoral.[2] The emotionalism of the Vaiṣṇavas has been attributed by Barth to sensual perversities.[3] These remarks may be too sweeping. Some, however, hold that though the end is spiritual, the means adopted may lead people astray.

---

[1] *Ethics of India*. New Haven, 1924.

[2] *Hindu Ethics*. 1922.

[3] *Chaitanya Movement*, 1925.

CHAPTER XXV

EROTIC GESTURES AND SEX-ACT

In the *Raghuvaṃśa* (vi. 12), Kālidāsa says that, in the assembly for the self-choice of Indumatī, at the sight of the princess the princes assembled made various erotic movements which he characterises as *śṛṅgāra-ceṣṭā*. We shall briefly discuss the erotic activities of a man in union with his beloved.

In the section of the *Kāmasūtra*, called *Sāmprayogika* (Chap. 1), there are classifications of men and women. The author also states which kinds of men and women should be united for getting pleasure. This matter has been dealt with elsewhere. Vātsyāyana has laid stress on the depth and duration of coitus. He says that, in the beginning of the sex-act, the man's desire is short-lived but intense. But, the woman's desire lasts long and gradually increases. So, at the start, the man should excite the passion of his partner.

Chapter II deals with various matters relating to embrace. The embraces of a man and a woman, who did not meet before, are of four kinds, viz. *Spṛṣṭaka* (appearing to be caused by accidental touch), *Viddhaka* (seeming to be caused by sudden push), *Udghṛṣṭaka* (caused by mutual rubbing in a crowd, *Pīḍitaka* (in it the woman is tightly pressed against a wall).

Embraces at mutual will are fourfold, viz *Latāveṣṭita* (in it the woman clasps the man like a creeper), *Vṛkṣādhirūḍhaka* (in it the woman seems to kiss the man as if by climbing a tree), *Tilataṇḍulaka* (in it one presses the thighs and the arms of the other), *Kṣīranīra* (in it the bodies of the two are united like milk and water).

Pre-coital embraces may be of four kinds, viz. *Ūrūpagūhana* (one pressing the thighs of another), *Jaghanopagūhana* (one pressing the buttocks of the other), *Stanāliṅgana* (the woman embracing the man with her breasts) and *Lalāṭika* (tightly pressing each others' face, eyes and forehead).

The art of kissing forms the subject-matter of chapter iii. The spots to be kissed are the forehead, hairs, eyes, the man's chest, the woman's breasts, lips and mouth. Kisses are fourfold : *Sama* (even), *Pīḍita* (forcible), *Añcita* (slightly touched), *Mṛdu* (gentle). Kisses in the upper and both lips simultaneously are called respectively *Uttara-cumbana* and *Sampuṭaka*. The kissing of a sleeping male by a woman is called *Rāga-dipana*. *Pratibodhaka* is the name of a man's kiss of a sleeping woman. The directing of attention to another direction is called *Cālitaka*. Kiss on a shadow is called *Chāyā-cumbana*. Kissing an image is called *Saṃkrānta*. The kiss of an inexperienced person is threefold : *Nimittaka* (nominal), *Sphuritaka* (tremulous) and *Gaṭṭitaka* (touch).

Nail-marks have been dealt with in chap. iv. Spots fit for these are the arm-pit, breasts, neck, waist and thighs. Nail-marks are stated to be conducive to the excitement of the partners.

Tooth-marks are the subject of discussion in chap. v. These are also stated to be helpful in exciting passion. Tooth-marks are of eight kinds : *Gūḍhaka* (absence of scar), *Ucchūnaka* (leaving red scars), *Bindu* (like dot-marks) *Bindumālā* (series of dot-marks), *Prabālamaṇi* (like corals) *Maṇimālā* (like a garland of jewels), *Khaṇḍābhraka* (like bits of cloud), *Varāhacarvitaka* (like chewing marks of a boar). There is a discussion as to how women of the different regions of India like to have their passion excited. The women of Bengal are stated to be soft-tongued, affectionate, and soft-limbed.

Various modes of the sex-act are discussed elaborately in chap. vi. Of a woman of the *Mṛgī* class, the coital positions are fourfold[1] : *Samarata, Utphullaka, Vijṛmbhitaka* and *Indrāṇī*. These are applicable to women of other classes too. The names of the other modes are *Sampuṭaka, Pīḍitaka, Veṣṭitaka, Vāḍavaka, Bhugnaka, Jṛmbhitaka, Utpīḍitaka, Ardhapīḍitaka, Veṇudaritaka, Śūlacitaka, Karkaṭa, Padmāsana, Parāvṛttaka.* A few others are as follows : *Sthirarata, Avalambitaka, Dhenuka, Saṃghātaka, Goyūthika.*

In the seventh chapter are dealt with patting and its reaction. Patting is stated to be an excitant. Patting is of four kinds—*Apahastika* (on the *breasts* of the woman), *Prasṛtaka* (on her head). *Muṣṭi* and *Samatalaka* (different kinds of gentle blow). Some other acts, initially painful but finally delightful, are called *Kāla, Kartarī, Viddha* and *Saṃdaṃśika.* As a result of these, the female partner makes various inarticulate sounds.

Sexual union in the reverse order is the subjectmatter of chapter viii.

Chapter ix deals with the sex-act into the mouth of an eunuch ; it is called *Aupariṣṭaka.* According to Vātsyāyana, unchaste women, female attendants, female shampooers etc. also resorted to this practice.

The tenth chapter tells us the duties of both the male and the female before and after sexual union. Before it the man should invite his partner, offer her wine and talk pleasantly with her. Then he should excite her passion by embrace, caressing her hairs and hands etc. Then the man should give her wine again. This will be followed by supper together. Tre menu will include mutton, fried meat, vegetables, fruits and sweets. After that both of them will go to the roof and enjoy moonshine and see stars and planets.

In the discussion on *Citrarata* (varied sex-act), it is stated that the unions, called *Rāgavat, Āhārya* and *Ayantrita* types are the result of the love of the male and the female and spontaneous. In the types, called *Kṛtrima* and *Vyavahita,* there is no reciprocal love. *Poṭārata* means the enjoyment of a woman of a lower caste or of female attendants and the like. *Khalarata* means the enjoyment of a rustic or uncultured woman out of sheer passion. The last thing to be described is *praṇayakalaha* or love-quarrel and the means of appeasing the anger of an angry woman.

The *Kuṭṭanīmata* mentions the following eleven accessories of sexual union : embrace, kiss, nail-marks, toothbite, coition, *Sītkāra* (a sound indicating pain mixed with pleasure, reverse union, stroke, pressing, holding the hairs and shampooing. In certain matters, there is no similarity between Vātsyāyana and Dāmodara. According to the latter, embrace is fourfold, viz. *Cakra* (circular), *Haṃsa* (like that of a swan), *Nakula* (like that of a mongoose) and *Pārābata* (like that of a pigeon). Of the various types of sex-acts, he stresses the eight external acts (375-78, 402-03, 572-74, 581)

CHAPTER XXVI

IMPACT OF SEX-LIFE ON PAINTING AND SCULPTURE

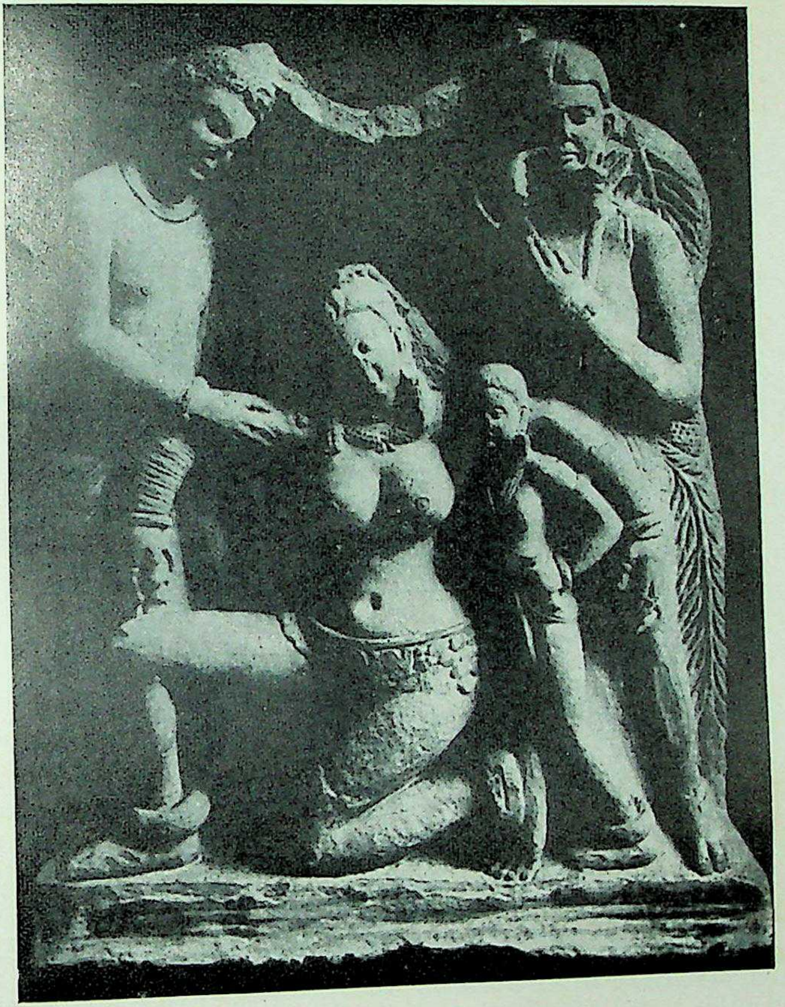
The erotic sentiment is called the *Ādi-rasa* or the primeval sentiment. It has been influencing Indian painting and sculpture since the remote ages.

The earliest erotic painting, discovered so far, appears to be on a pit of the Chalcolithic period, phase III. at Daimabad in Ahmednagar district of Mahārāṣtra. The human figures are conveyed through linear rendering. In one we find the phallus as well as the breasts of a female. One of the drawings in the Kupgallu cave in Mysore shows a man, in sexual exciment, chasing a woman. These drawings perhaps date back to a period not earlier than C. 700 B.C.

Erotic paintings are found at various places. For example, there are some specimens among the Kangra paintings.[1] Plate 2 in Archer's book depicts Rādhā and Kṛṣṇa in the grove. Kṛṣṇa in a sitting posture, clasps Rādhā and draws her to his bosom. He holds her right hand with his left hand, and puts his right arm around her neck over which her dishevelled hairs hang.

There is a sort of erotic group or orgy in plate 7 representing Kṛṣṇa and the milk-maids, two are close to him one each on the right and the left. He clasps these two.

Plate 10 depicts Kṛṣṇa as flying a kite, and Rādhā in her courtyard trying to grasp its shadow. It reminds her of Kṛṣṇa's presence and perhaps suggests the awakening of their love. It was a medieval practice for a person to let his kite fall where a girl is living to attract her notice.



Madhupāna - Bacchanalian scene

Lover and the beloved

CC-0. Agamnigam Digital Preservation Foundation Chandigarh

ILLUSTRATIONS TO SHOW EROTIC INFLUENCE ON PAINTING ARE GIVEN BELOW.[1]

Source		Description	Style	Age
K	Plate-0 opp. p. 230	Dalliance of Śiva & Pārvatī	Kangra Kallam	c 1800 A.D.
K	Plate XIX	Dalliance : A love scene	Basholi	c 1700 A.D.
K	Fig. 17	Dalliance of Madhavanala & Kāma Kandala (nude in the lap of Madana)	Kangra O Kalam drawing	c 1800 A.D.
K	Fig. 180	Dalliance of Śiva-Pārvatī Standing (Kissing pose)	-Do-	late 18th early 19th c A.D.
N	PL. 46	A love scene of voluptuous pleasure by Merchand, the artist.	Mughal Style	1211 A.H.
M	Fig. 18 A	Umā happy in the embrace of Maheśvara.	Painted Wooden book-cover of the Śiva-dharma. Durbar Library, Kathmandu, Nepal	c 1220 A.D.
R	PL. 38	A prince & a lady making love, the basic Tāntrik act at the human level. (Copulation).	Kangra, Gouache on Paper	18th c A.D.
R	Fig. 25	The sexual posture-Cañcala āsana.	Nepal	17th c A.D.
A		Lovers at Night. When embraced, she continues to minister to his comfort & fans him with a white hair-plume (may be to further function of fanning the flame of love).	Malwa, Central India	c 1680 A.D.
S	PL. 14	Lovers on the bed.	Bikaner miniature	18th c A.D.
S	PL. 22	The Lover embraces his beloved.	Painting from Amaruśataka	17th c A.D.
S	PL. 39	Love scene (embrace).	Mughal miniature	17th c A.D.
S	PL. 5	Lovers on a terrace (embracing).	Mughal School	18th c A.D.

---

[1] For much of the information, given below, the author is indebted to Sri S. Choudhury, Librarian, Asiatic Society, Calcutta.

Source with Abbreviations

K	*Pāhāri Miniature Painting* By Karl Khandalavala, Bombay, 1958.
N	N. L. Mehta, *Studies in Indian Painting.* Bombay, 1926.
M	*Studies in Indian Painting* By Moti Chandra. 1974.
R	Philip Rawson, *Tantra's Indian Cult of Ecstasy*. London.
A	*Central Indian Painting* By W. G. Archer. London.
S	*Kāma Sūtra of Vātsyāyana;* S. C. Upadhyaya. Bombay, 1961.

The *Ardha-nārīśvara* images of Śiva and the twin images of Lakṣmī and Ñārāyaṇa are scattered all over India. The phallic representations of Śiva are countless. especially in Vārānasī. The conception of *Ardhanārīśvara* probably orignated in the third century A.D. or a little earlier. In the opening verse of Kālidāsa's (C. 400 A.D.) *Raghuvaṃśa* and the *Nāndī* verse of the *Mālavikāgnimitda* reveal the idea of such an image.

The question may arise—how is that such a gross thing as sex-motif has been chosen in fine works of art? The reason is not very far to seek. *Rati-līlā* is one of the most important functions of human beings. In the midst of the harsh realities of life and humdrun chores, a man or woman seeks escape in love-sports. Again, the highest fulfilment of one's life depends, to a great extent on the mutual love of males and females. The acquisition of children, one of the most coveted objects of life, healthy and happy comradeship—all this depends on man and woman relationship. So, the painter could not think of a better subject than love-sports for portrayal. Even Buddhists, with a rather puritanic outlook on sex-life, appear to have favoured the delineation of sex-motifs in painting and sculpture.

The Kṛṣṇa-Gopī legend perhaps gave an added impetus to the depiction of amorous scenes in paintings.

The influence of sex-impulse on paintings has been manifest in India from remote ages. It is well-known that *savapna-sādṛśya-pratikṛti-darsana tadaṅga-spṛṣtasparśākhyāś catvāro virahiṇām vinodāḥ.* Among the four familiar means of

CC-0. Agamnigam Digital Preservation Foundation, Chandigarh

diversion for a lover in sparation one is *pratikṛti-darśana* or the sight of a likeness in picture. So we find in the *Meghadūta* (ii. 44) that the exiled Yakṣa draws a picture of his beloved in order to assuage his forlorn feeling. In the *Śakuntalā* (vi. 17) the king plans to paint a picture of the sports and his beloved whom he had repudiated through delusion and in separation from whom he had been pining.

Pieces of sculpture indicating erotic feeling[1] are engraved in many old temples. In them various amorous postures are delineated. The presence of such sculptures in the holy temples may seem to be incongruous. But, the Indian artist probably thought nothing holier than the act which leads to creation. It was perhaps their object to rouse this feeling among people. People having faith; on seeing such images in the meeting places of temples will be attracted more to the sancitity of the sex-act than to its gross aspect—this was perhaps the motive force behind the depiction of erotic scenes.

Erotic motifs in painting and sculture may have owed their orign to Tāntric influence. Of the five *Tattvas*, recognised in Tantra as requisites for *Sādhana,* one is the sexual union. This may have been one of the reasons for the presence of such images in temples. The influence of Tantra was wide and deep. Orissa was a noted centre of Tāntric Sādhana. According to the Tibetan work, *Pag-sam-jang Jāng,* Buddhist Tantra originated in Uḍḍiyāna (V. L. Oḍḍiyāna, Odiyāna, (dryāṇa) which, according to H. P. Śāstrī and other,[2] means Orissa. In Tantra, the deity Jagannātha of Puri is mentioned as the Bhairava of Vimalādevī. It may be noted that, at one time, in the Jagannāth temple, there was a curious custom influenced by Tantra. A young girl was pompously carried and married

---

1. On erotic influence on sculpture, see D. Desai : *Erotic Sculpture of India*, K. Lal : *The Cult of Desire*, V. Prokash : *Khajuraho* P. Thomas : *Kāmakalpa*, *Incredible India*, R. J. Mehta : *Konark Sun Temple of Love.*
2. P. Roson : *Erotic Art of the East*, S. Kramrisch : *Unknown in India, Ritual Art in Tribe and Village*, Zannes and Auboyer, *Khajuraho,* R. Lennoy : *The Eye of Love.*

to Jagannātha. At night they were supposed to cohabit. This was believed to result in a bumper harvest.[1]

Some think that extreme sensuality of the rich people was at the root of the delineation of erotic motifs in temples. At huge expenses they used to build temples and get such images and scenes engraved as reflected their innate lewdness and sex-desire. It was a sort of sexual gratification. In the present day too we find various vulgar pictures like those representing nudity in the houses of some passionate rich people. The temples of Puri and Konārak are the greatest repositories of the various types and methods of the sex-act. In the *Kāmasūtra* a great diversity of the modes of sexual pleasure has been provided for the man about town.

According to some, these erotic representations were intended to attract the common people to temples. Others think that the motive underlying these representations was to test the mental strength of those intending to enter into the portals of spiritual life.[2]

Magic connected with the sex-act might have motivated some of the erotic sculptures in temples. There is a tradition that, as none disturbs a couple enjoying sexual pleasure so gods will not disturb the temples, containing representations of copulation, with thunder, earthquake and other natural ravages. In this connection, it should be pointed out that, in most cases, erotic sculptures are found on the exterior of temples and not in the interior. The idea was perhaps, to make them prominent even to gods above.

Another idea of the people appears to have been that the depiction of sexual union at such holy places would ensure fertility of the lands which was so important for survival. As sexual intercourse results in child-birth, so its representation is a symbol of fertility.

---

[1] Vide Britsault. *The Mother*, II. p. 210.

[2] For a discussion on the possible motives, see V. Prakash,s work, *Op. Cit*, p.p. 153 f. and Desai's aforesaid work, p.p. 54 f.

The inmates of many temples indulge in sexual enjoyments. For a long time regular prostitution was carried on at these places. The temple-girls, designated as *Devadāsīs*, were symbolically married to the deities of the temples. The temple priests, the living embodiments of deities, used to enjoy them.

There is a sort of dichotomy about women in Indian Sāstras. Ascetic morality looks upon them as gateways to hell. On the other hand, Tantra regards them as a source and receptacle of energy. The truth is that they can be fancied as representatives of goddesses and employed for the gratification of the reprehensible carnal desire. So, the wise have cautioned people not to regard her as merely an object of sensual pleasure. The *Mahābhārata* indentifies (Anu. 46-14) women with goddess Lakṣmī. According to Manu (iii. 56) gods dwell where women are honoured. The object of renouncing *Kāminī* (woman) and *Kāñcana* (gold) is not to desert one's mother, sister, wife, etc., but to abjure carnal desires.

In the sculptural delineation of erotic matters Khajuraho (850-1050 A.D.) Konarak (13th cent.) and Ellora (8th. cent.) are the most noteworthy. In the temples of these places, various matters have been engraved or inscribed on stone. The Hoysaleśvara temple (12th. cent.) of Mysore, too, claims our attention. Also deserving mention are the designs on the temple-walls of Middle and West India. Sculpture depicting sex-act is also available at Sanchi, Amarāvatī and Mathurā. The representation of a couple in the Liṅgarāja temple (11th cent.), Bhubaneswar, shows that a fully mature man in a standing posture draws in to the middle of his body a woman with her buttocks agape and feet slightly turned upwards ; both are naked.

The Orissan works of architecture reveal the influence of sex-life. Temples are of two classess, viz. *Rekha* and *Bhadra*. These are mutually connected. Their connexion is likened to the tying of the cloths of the bride and the groom. The former is male, the latter female. They are joined in sexual union.

Erotic influence is visible not only in images and temple decoration but also in terracotta figures. In some seals this is manifest. The Rupar seal (3rd. cent. B. C.) reveals the idea of copulation. A terracotta couple, found at Candraketugarh

(C. 2nd. cent. A.D.), resembles the aforesaid figure in the Lṅgarāja temple. The various poses of sexual union, found at Candraketugarh include oral action, action from the rear etc.

A Tamluk terracotta shows a couple in a state of sitting coital union.

About the twelfth century A.D. there was a re-appearance of this conception ; in certain specimens there is a goddess, while in others she is absent.

In certain sculptures there is representation of the woman-superior position in coitus. The Bellagavi sculpture in the Tripurāntaka temple (C. 12th cent. A.D.) of Shimoga district in Karnataka is a specimen of this position.

In certain sculptural specimens there is representation of a couple with flowers and foliage since the second century B.C. For example, there is the lotus-motif over the head of Sudarśanā Yakṣī (2nd. cent. B.C.) from Bharhut. There are leaves over the head of a passionate couple and their attendant in an image (1st-2nd. cent. A.D.) of Mathurā.

In certain terracotta representations, found at Kausambi in Uttarpradesh, Nevasa region of Maharastra, Nāgārjuna-Konda etc., in the first few centuries of the Christian era, there are nude figures of a goddess, called Śrī.

There are various postures of copulation in certain sculptures in caves and temples of certain places, *e.g.* Kārlā, Koṇḍānā, Badāmi (old Vātāpi), Paṭṭadakal etc. These postures show the union of a man and an animal, an animal and a woman, enjoyment of one woman by two men, inverted eoitus, gratification of the sex by mouth etc. In certain cases, the male and the female, engaged in coitus, are supported by another person.

A study of the terracotta figures reveals that they began to come to prominence since C. third century B.C. Nude female figures, however, appear as early as the thirteenth century B.C. We have already seen Mahānagnī in A.V. and R.V, (Khilasūkta).

---

1. See V. Prakash, *Op. Cit.* p.p. 151 f., D. Desai's aforesaid work, p.p. 8, 72 f.

Among erotic sculptures a noticeable feature is supported coitus. The female figure in the Bellagavi image is a specimen of it.

Very recently a seven-storeyed 'Bawri' and a temple of Mahālakṣmī have been discovered at a place about five K.M. south of the town of Karvi in Banda district; it is near Citrakūṭa Where, Rāma is said to have passed the period of exile. The place was built about 150 years before the Peshwas came to power according to a plaque on a wall of the temple. The Peshwas assumed power early in the eighteenth century A.D.

The numerous sculptures in the temple reveal remarkable resemblance with those at Khajuraho. Erotic motifs have been freely adopted. Even gods and goddesses are shown in erotic postures. For example, Śiva is represented as embracing the goddess in anger.

An analysis of the erotic motifs leads to the following broad conclusions.

The earliest representation of *mithunas* occurs in the Buddhist monuments of the 2nd. cent. B.C. at Sanchi and Bharhut. At Bodh Gaya there are representations of *mithunas* in the midst of anspicious motifs on railings belonging to 100-50 B.C. The earlier erotic motifs appear to have been connected with cults of fertility. While the religious aspect was not ignored in the later specimens, a tendency to sensualisation is noticeable in the latter.

In course of time, the Indian outlook on art underwent change as a result of mixing with the foreigners like Śakas, Kuṣāṇas etc. As a contrast to the pairs of Bharhut and Sanchi the Mathura pairs represent various amorous activities in a romantic setting.

In the period between the 1st. and the 3rd. century A.D a noticeable features is the depiction of couples and other erotic motifs on the doors or at the entrance of monuments, *Mithumas* were regarded as an auspicious motif.

---

1. Vide daily paper, *Statesman*, d/17. 10. 78.

Maithuna appears for the first time in the temples of places like Aihole and Badamī. The art of depicting such erotic motifs in the Deccan cover the period from the sixth to the ninth century A.D.

The seventh-eighth century temple-sculpture of Orissa shows the influence of Tantra. Although some of the Tāntric *pañcamakāras* are represented, yet *mithuna* occupies a prominent place. Various kinds of the sex-act are depicted. Amorous *mithunas* of non-coital type are also found.

The period between 900 and 1400 A.D. witnessed a sort of explosion of erotic motifs. It was perhaps due mainly to two reasons. On the one hand, people developed a taste for ornamentation. On the other, there was the people's growing love of the erotic aspect of life. Tantra, declaring sexual union as an essential means of *Sādhana*, was perhaps responsible to a great extent in fostering this love It is human nature that a sentiment takes time to develop, and once it develops all restraint breaks down. Another factor was indirectely responsible. There was the growing idea about the good result accruing from building temples. So, temples came to be built in large numbers and they traditionally provided opportunities for the display of sculptural skill.

In connexion with the treatment of the erotic sculpture of this period, we should add that, by this time, the depiction of sex-motifs on temples came to be recognised or permitted in the canons of *Śilpaśāstra*. The well-known medieval works *Silparatna* (46, 9-10) and *Mayamata* (18, 3) forbid the depiction of nude figures and amorous sports on human habitations. On buildings for other purposes whatever is desired may be done. Thus, there is an indirect approval of the depiction of such motifs on temples. The *Suprabhedāgama* (30th. *paṭala*) advises the depiction of the sports of Śiva and Hari.

The *Silpa-prakāśa*, a Tantric *Śilpa* text, clearly recognises the magical effect of sexual depictions It dates back to a period between the 9th. and 12th. centuries A.D.

Once the depiction of erotic motifs was canonised, the architects considered it to be a part of their duty, and, of course, a fashion to represent such figures.

The magical and religious beliefs and practices appear to have been at the root of the erotic depiction in sculpture. Subsequently other tendencies, as discussed above, appear to have led to its development.

The coïtal position (*maithuna*) is the preponderating erotic motif in sculpture. Generally a man and woman are involved in the act. But in sculptural representations we find the involvement of several persons. Mainly six types can be distinguished ; there are sub-types also. The various types are as follows :

1. It represents moderate eroticism.
2. It portrays the *Saṃghāṭaka* position described in the *Kāmasūtra*. In it three persons are engaged in erotic activity or coïtus.
3. It shows a couple in sexual union or love-making helped a male, a female or eunch attendant or attendants.
4. It appears to illustrate Vātsyāyana's *goyūthika* type of union in which one man sinultaneously enjoys more than two women or one woman is engaged with more than two men.
5. It represents many men and women engaged together in sexual activity.
6. It depicts the sexual activities of many couples at the same time and place.

CHAPTER XXVII

SEX-INFLUENCE ON MYTHS AND LEGENDS

Various myths and legends of ancient India have the sex-impulse at their roots. They prove that the life of man was, to a great extent, moulded by the sex-impulse.

The bulk of the *Rāmāyaṇa* is devoted to the abduction of Sītā and the incidental matters. The main urge of this abduction was passion mixed with revenge.

The legend of Ahalyā betrays Indra's passionate approach to her. The amorous approach of Śūrpaṇakhā to Lakṣmaṇa led to the cutting of her nose. The object of the murder of Bālin was condign punishment of undisciplined passion.

In the *Mahābhārata,* the disgraceful behaviour of the Kauravas towards Draupadī led to the breaking of Duryodhana's thigh, the drinking of Duḥśāsana's blood etc.

The epics contain many references to the influence exerted by women on men. The association of women on the eve of war and in times of danger is invigorating like wine (Mbh. IV. 11. 38). Even an insignificant man becomes vociferous about self-applause before women. (Ibid. XII 284. 27). As a peace-maker brings about reconciliation between two warring parties, so a woman exerts influence on man (Mbh. XIV. 78. 22; VIII. 4. 19), As a female messenger assuages the grief of a man, and averts an untoward incident so at the very presence of a woman a man melts (Rām. IV. 33. 28 f.f., 33, 36, 37).

The demon brothers, Sunda and Upasunda greatly loved each other. By severe penance they pleased God by whose boon they could not be killed by others excepting themselves. This made them haughty, and they began to oppress others. Having on other alternative, at the behest of Brahma, Viśvakarman created a woman of exquisite beauty, called Tilottamā, by gathering bits of beauty from different places. For getting her absolutely under own control they fought each other and died (Mbh. I. 209-12).

Even a sage's son, reared up in the tranquil atmosphere of the hermitage, could not escape this powerful impulse. The legend of sage Ṛṣyaśṛṅga, proves this. At the sight of the graceful princes, Śāntā, passion was excited in the pure heart of the young sage. In a later version, Śāntā is replaced by a courtesan (Mbh. III. 110. 22, 111).

PERVERSE SEX-ACT

Various perversities are noticeable in the sex-life of ancient India.

In the *Rāmāyaṇa* (VII. 73. 43) *āsyamaithuna* or the sex-act of a male in the mouth of his female partner was regarded as an offence. Such a woman is called *mukhabhagā* (III. 188. 41). Sex-act in an animal organ and homosexuality have been condemned (XIII. 145. 52).

In the Mbh. it is stated that sometimes two women together unite in the sex-act. The commentator, Nīlakaṇṭha, states that, in such an act, one of them holds an artificial male organ. The *Kāmasūtra*, (section vii) too referes to artificial organs. There is mention of the use of a phallus-shaped plant by women.

The *Arthaśāstra* refers to some unnatural sex-acts. Homosexuality was punishable as social offence (3. 17, 4. 13). Also penal was enjoying an animal (4. 13). Sex-act in *ayoni* is declared as punishable (4. 13). The word perhaps means a spot other than her organ, on the female body. Also punishable was sex-act in the image of a goddess.

Yāj. condemns (ii. 289) sex-act in cows and other animals, ii. 293 declares that this act in a spot, other than the organ, on the female body and homosexuality are punishable.

In the *Viṣṇu-dharmasūtra* (V. 44) and *Nārada-smṛti* (XV. 76) unnatural sex-act is mentioned among offences.

CHAPTER XXVIII

SEX-ACT AND ETHICS

There are many references to adultery and incest in ancient India. We have noticed how in the *Ṛgveda,* the passionate sister tries to seduce her brother to commit incest with her. In the epics and the Purāṇas, we have seen that even sages and gods succumbed to this and many other ills flesh is heir to. The sexual urge is uncontrollable. The Sanskrit poet says that passion is the worst of the enemies. Among the six internal enemies, *Kāma* (lust) stands first.

Since remote ages, the wise have been stressing the need of controlling the senses, especially in student-life. The main thing in *Brahmacarya* is this control. A student shall not associate with women. The rules in this connexion are so rigid that a student is forbidden even to touch the feet of the young wife of the preceptor. *Maithuna* or union with a woman is stated to be eightfold, viz. remembering a woman, talking about her, playing with her, looking at her, secret conversation, resolve to meet her, effort to do and sexual union. Each of these is forbidden for a student.

A widow must practise regorous restraint in this respect. She will not eat such food and use such things as excite passion.

Adultery has been severely condemned ; the punishment for it is heavy.

Self-restraint in married life has been ordained in various works. Manu and some other wditers limit sexual enjoyment only to the days following the monthly impurity of a woman. It is forbidden on festive occasions, before proceeding on a journey, and on certain other occasions. A wife is taken for getting a son ; the implication of this remark is that a wife is not merely an object of sensual gratification. According to Kauṭilya, pleasure is, of course, to be sought but sexual enjoyment should be done keeping to the rules.

The directions of Sāstras have not been observed at all times. There are many references testifying to the prevalence of the practice of enjoying one's female slaves.

The begetting of a son by levirate, though forbidden at later times, was allowed earlier. This was, however, the last resort. In this matter, the woman was not given a free hand. She had to seek the permission of her superiors, and had to stop with the birth of one son.

For illicit sexual relation with an unmarried girl both the parties were punished. But, according to Manu (viii. 366), Yājñavalkya (ii. 288) and Nārada (XV. 72) no offence resulted from sexual union with a willing woman of the same caste. In such a case, the man had to marry her.

Even the master had not the right of freely enjoying a female slave in the keeping of himself or of anybody else (Yāj. ii. 290, Nārada XV. 79).

It was a punishable offence to converse with another's wife in a lonely spot (Manu. viii. 362). But, such a conversation was allowed with the wives of the following persons: actor, singer, one whose livelihood depends on the earnings of the wife. The reason given for this exception is that they themselves allow their wives to mix with other men.

Incest has been severely condemned on pain of heavy punishment. According to Nārada (XV. 73-75), women, with whom sexual union is prohibited, are as follows: step-mother, maternal aunt, mother-in-law, paternal aunt, wife of a friend, pupil, sister, female friend of the sister, daughter-in-law, daughter, preceptor's wife, a woman of the same *gotra*, a woman seeking shelter, queen, a female mendicant, nurse at one's birth, chaste wife of another man, a woman of a higher caste. The punishment for it for the male is the cutting of his organ. Manu (XI. 170-71), Yāj. (iii. 231-33), *Matsyapurāṇa* (227. 139-41), Kauṭilya (4. 13) etc. also prescribe a similar punishment. According to the writers, excepting Manu, the punishment and expiation for a non-Brahmin offender are death. The willing woman in such a case shall also be put to death. According to Bṛhadyama (iii. 7), Yama (35 Ānandāśrama) etc., for incest with one's mother, sister, daughter and preceptor's wife there is no other expiation than burning to death; this is irrespective of caste.

Despite severe condemnation of unapproved sex-relations, ancient Indian society betrays a lot of violation of the pious principles. It only shows that human impulses connot be fully controlled by rules and regulations.

What is striking is that passionate people did not rest content with natural modes of sex-enjoyment. We find many instances of sexual perversities. A few instances are given here. We have noticed a few cases of aberrations is connection with sculpture.

The Rām (vii. 73. 43) condemns 'āsya-maithuna' or the gratification of a man's sexual desire in the month of a woman. Such a woman was called *mukhebhagā* (iii. 188. 41). Also condemned is such gratification by means other than the sex-organ of a woman and with animals. These prohibitions testify to the vogue of such practices.

From the Mbh.[1] we learn that two women together take to sexual gratification, one of them holding an artificial phallus. Such artificial devices, made of various metals, are mentioned in Vātsyāyana's *Kāmasūtra* to (7th Adhikaraṇa).

The *Arthaśāstra* (3. 17, 4. 13) prohibits on pain of penalty perverse sex-enjoyments, between a man and a female animal, a man enjoying himself in the image of a goddess.

Yājñavalkya prohibits a man's enjoyment with an animal (II. 289), homosexuality etc. (II. 293).

The *Viṣṇu-dharmasūtra* (v. 44) and the *Nārada-smṛti* (xv. 76) regard unnatural sex-acts as offensive.

INFLUENCE OF SEX ON SOCIETY

The sex-impulse is eternally ingrained in human mind. Man has expressed himself in various ways through this instinet. The psychologist says that, under its influence, man does many things, commit various offences. The love of men and women depends on it to a considerable extent.

---

[1] Vide Meyer, *Sexual life in Ancient India*, p. 495 (1971).

In ancient times, the sex-impulse led to many rites and practices. One instance is phallus-worship. *Śivaliṅga*, attached to a ring-like thing, is a symbol of procreation and indicates creation.

That man regarded woman as the source of strength is proved, *inter alia*, by the worship of Kālī. Prakṛti-Puruṣa underlie creation according to Sāṃkhya philosophy. Matriarchy, prevalent in primitive Indian society, seems to have been based on the predominance of Śakti.

In ancient India, the world was conceived as a woman. Manu says (ix. 37) that the earth is the eternal source (*Yoni*) of the creatures. In *Ambuvācī*, the earth is supposed to be in her annual impurity corresponding to the monthly inpurity of a woman.

There is a popular belief that a plant, whose sapling is planted by a pregnant woman, grows well. But, at the touch of a barren woman, it suffers.

In Smṛti the wife is called *Kṣetra* and the husbant *bījin* The latter sows seeds into the former in order to produce issues.

According to some, the vermilion spots on the foreheads of women and on certain things used in worship are symbols of the menstrual flow. As a woman in her monthly course has the possibility of conception, the above spots indicate the power of procreation.

The sex-impulse infiltrated into religious life in remote ages. The phallus-worship, referred to above, originated as early as the Ṛgvedic period (RV. vii. 21. 5, x. 99. 3). In the *Vājasaneyī Saṃhitā* (xxiii) there is reference to the sexual union of the queen and the priest in Aśvamadha sacrifice. It was a part of the rite. In the *Taittirīya Brāhmaṇa* (3-9) and *Śatapatha* (xiii. 5. 2) we find the custom that the queen, covered with a cloth, was laid beside the horse in the above sacrifice. She prayed for the infusion of the horse's procreative power into her. According to some, this rite was a part of fertility rites relating to lands.

In the *Śatapatha* (*e.g.* I. 9. 2-7, VI. 4, 3, 7 etc) coition has been identified with sacrifice. In the *Bṛhadāraṇyaka* (vi. 2. 13) and Chāndogya (V. 8. 1. 2. a woman is fancied as sacrificial fire ; her lower body is sacrificial wood, the vagina flame, coition spark.

In some religious rites, the *Yonimudrā* is used. It is a Tāntric position of fingers in the shape of the female organ which symbolises a part of creation.

The erotico-religious sex-appeal of the Kṛṣṇa Gopī sports is wide and deep among the masses. Ever since Purānic times Kṛṣṇa's sports have been producing an impact on society, particularly among the Vaiṣṇavas. The song of Vaiṣṇava *Padāvalīs, Yātrā* performances with themes relating to *Kṛṣṇa* etc. are still melting the heart of the appreciative devotees.

In various places of Bengal, free sexual intercourse of men and women irrespective of relatives and others, on the occasion of Durgā Pūjā was prevalent till the end of the nineteenth century. Among the practices on the *Daśamī* or the last day of the *Pūjā,* there was *Śabarotsava.* It consisted in mutual abuse mentioning the male and female organs etc.

To arrange for the marriage of a girl in time has been ordained as a duty of the guardian not only in the Dharmasāstra but also in the *Arthaśāstra* Kauiṭlya declares (4.12) that a father shall lose right over his daughter if he fails to marry her off even after her menstruating for seven times. If, even within three years of her first menstruation, a girl is not married, she will have the right to enjoy herself with a man of the same caste or status. After the lapse of three years she can also unite with a man of a different caste with impunity.

Though sexual union outside wedlock is punishable according to the *Arthaśāstra* (4.12),yet it is not so in the above cases. In other cases, the punishment is lighter for union with a mature woman than with an immature one. The punishment for enjoying a willing woman is lighter than that for enjoying an unwilling one.

It is the duty of the husbands to satisfy the sex-desire of his wife. Before union he should excite her passion (3.3).

If the wife enjoys herself with another man in the absence of the husband, the husband may pardon both or cut off the nose and ears of the wife and put the paramour to death.

Kauṭilya provides for exploiting the sex-impulse of man for political purposes (4. 4). A spy will tell the man, who resorts to charms, herbs or rites in the cemetery to bring about love of a man for a woman, that he (the spy) loves the wife, daughter a daughter-in-law of a particular person. He will hold out temptation of a reward if he can make that woman favourably inclined to him. If that man agrees, he will be declared as a *Saṃvadana Kāraka* or sorcerer.

CHAPTER XXX

PRESERVATION OF YOUTH, INCREASE OF SEXUAL VIGOUR AND PHYSICAL CHARM

We shall deal with these topics briefly.

For augmenting sexual vigour a man should rub his organ with a mixture of the powder of *Dhattura, Marica* and *Pippalī* and honey. The powder of the following also may be applied : *Vajrasnuhi*, *Manaḥśilā*, *Gandha* and *Pāṣāṇa*. The following are some other re'ceipe's by which a man's vigour may be like that of a bull :

1. Water in which the following have been boiled : roots of *Carvyā*, *Yaṣṭimadhu*, *Uccaṭā*, the testicles of a sheep and a goat.
2. Milk boiled with seeds of *Moratā, Priyāla, Kṣīrikā* or roots of *Vidārī*.
3. A mixture of *Kaseruka*, *Madhulika* and *Śṛṅgāṭaka*.
4. *Pāyasa* prepared with rice, mixed with the juice of the eggs of sparrows, boiled in milk, with honey and ghee.

The ointment of the following is prescribed for elongating the genital organ : the juice of *Anukaṇṭaka* of *Kandalika*, *Aśvagandhā* etc.

For the contraction of the female organ, the ointment of the following is efficacious : juice of *Jambu* fruits, *Kokilākṣa* fruits and of the leaves of *Vyadhighātaka*.

For the expansion of the same, the ointment of the following is prescribed : paste of *Sarjaka, Sugandha, Utpala* and *Padma*, mixed together.

The paste of the following is prescribed for increasing physical charm : leaves of *Tālīsa*, *Kuṣṭha*, *Tagara*. Also efficacious is the oil of the leaves of *Sahadevī*, *Sārivā*, *Punarnavā*, *Kuraṇṭaka* and *Utpala*. The collyrium of *Akṣataila*, the powder of several flowers etc. also may be used.

For the beautification of hair the extracts of the following are beneficial : roots of *Añjanikā Girikarṇikā*, *Kākuḷajā* and *Madayantikā*.

With *Madayantikā* one's lips may be reddened. With lac-dye, mixed with the sweat from the testicles of a white horse, red lips may be whitened.

CHAPTER XXXI

LOVE IN SANSKRIT LITERATURE

From the foregoing pages it may seem that men used to look upon women merely as objects of physical enjoyment. If there was any love, it rested on the female body. As a matter of fact, however, she did not merely cater to the physical needs of man. In ancient India, there was also pure conjugal love. This love transcended the body, and was placed on a high pedestal. In Sanskrit works, there are copious references to the transformation of gross lust into heavenly love, self-sacrifice at the altar of love, immense suffering for the person loved etc. We shall deal briefly with pure love of the opposite sexes, revealed in this literature.

In the Ṛgvedic legend of Purūravas and Urvaśī (X. 95) we have an example of sincere love in the mortal king for the celestial mymph. Though she forsakes her, yet the king's eagerness for getting her back knows no bounds. Though she is unwilling, the king's attachment to her is unbound. This legend occurs in the *Śatapatha Brāhmaṇa* too. (Finally it was modified by Kālidāsa in his *Vikramorvaśīya.* At the hand of the masterly dramatist, the hard-heartedness of the original Urvaśī has been mellowed to a great extent. Urvaśī disappears. The king makes a frantic search for her. This madness of the king is not the result of passion, but of real love. It is scintillating in union and heart-rending in separation.

In the Dialogue of Yama and Yamī (X. 10), the appeal of the sister is incestuous. Nevertheless, it is the sincere outpouring of a truly loving heart. May be that it betrays youthful fire of passion and lack of restraint ; but the girl's sincerity connot be doubted.

In the Vedic age, we find earnest solicitude for conjugal love. Though the Brahmavādinī Ghoṣā grows old in her father's house, yet her desire for marriage is keen.

In Pāli literature, love-poems are naturally rare. In the *Dīghanikāya* the query of Sakka has charm imparted by the touch of love. In it there is glorification of love in the song of the Gandharva and there is sincere longing for union with the beloved.

In the *Mahābhārata* legends of Sāvitrī-Satyavān, Nala-Damayantī and Duṣyanta-Śakuntalā etc. love has been glorified. The sanctity and greatness of Sāvitrī's love succeeded in bringing her dead husband back to life. It was love that urged Damayantī to court endless suffering with her husband. The love of Duṣyanta-Śakuntalā has been ennobled in the drama of Kālidāsa.

In the *Rāmāyaṇa*, the deep love of Sītā for her husband urged her to leave the pleasures of palace-life and court the privations of forest-residence. The depth of Rāma's love for his consort finds expression in the Sundara Kāṇḍa where he frantically searches for his abducted sweetheart.

In some Purāṇas, particularly in the *Bhāgavata*, there are descriptions of the love-sports of Kṛṣṇa. According to the Vaiṣṇavas, this love was free from the taints of grossness and vulgarity.

In later sanskrit literature, ideal love has been delineated. Kālidāsa's brush has painted the pictures of love with various hues. In the *Raghuvaṃśa,* Rāma, knowing Sītā to be *anaghā* (free from sin), performs stern royal duty by banishing her, because public calummy is unbearable to him. But, he has banished her from his home, not from the inmost recess of his heart. After banishment his heart was rent by grief as a piece of heated iron is broken to pieces by a hammer. Suddenly his eyes are filled with tears as the winter moon is with dew. The king Rāma might marry another woman. Instead the lover Rāma established a gloden image of her.

The wails of king Aja at the death of Indumatī (viii) show what invaluable treasure a wife is to her husband.

In the *Kumārasambhava* we find that Pārvatī, though a princess, is bent on securing the love of the destitute Śiva. Finding no other way she takes to hard penance in which he refrains from eating even the leaves of trees dropping spontaneously. This is really self-sacrifice at the altar of love. Otherwise, how can one get such a husband and such love? Śiva in disguise tests her in many ways. He is convinced that, in her love, there is not a tinge of insincerity.

In the above poem, Rati's lament following the death of her husband shows the intensity of conjugal love. Among other things, the poet says—with the moon disappears moonlight, with the cloud disappears lightning. Thus, even inanimate objects indicate that the wives follow the path of their husbands (Kumāra iv).

The *Meghadūta* reveals the glory of love. The Yakṣa, in separation from his beloved, cannot stay even for a year. He does not find delight in dream, at the sight of pictures etc. So, he, in the madness of love, forgets the distinction between the animate and the inanimate, and sends the cloud as his messenger.

Bhāsa portrays ideal conjugal love in his *Svapnavāsavadatta*. For the good of her husband, whom she loves sincerely, Vāsavadattā agrees to his marrying Padmāvatī. She has to remain in disguise in the house of the latter. What is more painful is that she has to make arrangements with her own hands for the marriage of her co-wife ! What a supreme sacrifice for a woman ! Though Padmāvatī is her co-wife, yet Vāsavadattā does not bear the slightest jealousy towards her.

In the *Abhijñānaśakuntala*, both the king and Śakuntalā fell in love at first sight. This is due to the youthful urge of passion. When the king got rid of the influence of the curse, he became mad for Śakuntalā whom he repudiated under the influence of curse. Śakuntalā also felt miserable in separation. Thus both the partners performed penance for their youthful sin. The grossness of their passionate love was burnt is the fire of sorrow. It was then transformed into heavenly conjugal love. The lovers, whose bodies were united by passion, were united in heart by love.

Bhavabhūti stands pre-eminent in the glorification of love. While describing conjugal love, he says that a matchless thing is acquired with great difficulty. It is the same in joy and sorrow, favourable in all conditions, the resting place of the heart ; old age cannot take away its pleasure, in course of time due to the removal of shame etc. it is transformed into the essence of affection (*Uttara-rāmacarita* i. 39).

The dramatist draws a heart-rending picture of Rāma afflicted in separation from his beloved. What an intensity of the husband's love for his wife, how deep is the longing for union ?

In the *Mālatīmādhava* (vi. 18) he has sung the glory of conjugal love of Mālatī and Mādhava through the advice of *Kāmandakī* : You should know that the husband and the wife are each other's most intimate friends, the symbols of all relations, the significant representations of all desires and are treasures, nay like life itself.

The ideal love of Vasantasenā in the *Mṛcchakaṭika* has been discussed elsewhere.

The Vaiṣṇavite poems and dramas depict the love of Rādhā and Kṛṣṇa in various ways. Of the poems, the *Gītagovinda* is the most noteworthy. There is great depth of love in it.

Sanskrit works contain many descriptions of romantic love. As instances may be cited Bilhaṇa's *Caurapañcāśikā*, Daṇḍin's *Daśakumāra-carita,* Bāṇa's *Kādambarī,* Subandhu's *Vāsavadattā* etc.

By reducing Cupid to ashes Śiva has spread throughout the world not only the seeds of passion but also the germs of genuine love.

APPENDIX

CRIMES AND PUNISHMENTS

The crimes have been divided into the following classes. Under each class the main crimes have been alphabetically arranged and the main corresponding punishments noted.

A. CRIMES RELATING TO MOVABLE PROPERTY
B. CRIMES RELATING TO IMMOVABLE PROPERTY
C. CRIMES AFFECTING HUMAN BODY
D. CRIMES RELATING TO OR COMMITTED BY WOMEN
E. CRIMES IN CONNEXION WITH LAW-SUITS
F. OFFENCE RELATING TO EDUCATION
G. MISCELLANEOUS OFFENCES

A. CRIMES RELATING TO MOVABLE PROPERTY

Title of offence	*Punishment*
Asvāmi-vikraya (Sale by one not being the owner)	As in theft. If the seller is shown, the buyer shall have no offence. If an article is sold without the knowledge of the owner by a member of his family the seller is punishable.
Ṛṇādāna	If the debtor complains to the king when the creditor tries to recover the admitted debt by lawful means, the former shall be fined. If the creditor tries to recover the debt, which is denied, without the help of the Court, he shall be fined.

Title of offence	*Punishment*
Caurya (also called Steya, Apaharaṇa, Granthibheda).	Cutting off of the thumb and the forefinger, fine, cutting of hand, cutting the limbs to pieces, death penalty. The punishment depends on the gravity of the offence. Death penalty is prescribed for repeated theft. Generally it is inflicted after the commission of theft for the fourth time.
Interest at rate higher than the prescribed rate.	Fine
Non-delivery of an article sold, or Non-acceptance of an article purchased.	Fine
Selling an article, sold to one, to another.	Fine
Failure to render service after receiving wages.	Refund of wages and double the amount as fine.

B. CRIMES RELATING TO IMMOVABLE PROPERTY

Failure to carry on promised agricultural operations in a land.	Fine plus value of the crops that might have been grown.
Misappropriation of a land on the produce of which one depends for sustenance.	Such a person is an *ātatāyin* who may be killed by the owner with impunity.
Causing obstruction on the highway or planting trees there.	Fine
Cutting others' trees, destroying fruits etc.	Fine

Title of offence	*Punishment*
C. CRIMES AFFECTING HUMAN BODY	
Murder with intention.	Generally death penalty; for Brāhmaṇa offenders, banishment.
Abetment of murder.	Half the punishment prescribed for murder.
Murder without intention.	No punishment.
Murder of an *ātatāyin*	No punishment.
Assault on vital part of the body.	Amounts to murder.
D. CRIMES RELATING TO OR COMMITTEED BY WOMEN	
Adultery on wife's part.	Wife can be killed by husband.
Adultery of a woman with a man of inferior caste.	Woman to be devoured by a dog or to have ears cut off.
Adultery of a man with a woman of same caste.	Man to undergo *uttamasāhasa*.
Adultery of a man of higher caste with a woman of inferior caste.	Man to undergo *madhyamasāhasa*.
Adultery of a man of a lower caste and a woman of a higher one.	Death penalty of the man.
E. CRIMES IN CONNEXION WITH LAW-SUITS	
Distortion of statements of disputants.	Equivalent to theft.
Acceptance of bribe by a person connected with administration of justice.	Confiscation of property.

Title of offence	*Punishment*
Perjury.	Fine For a Brāhmaṇa, banishment. For repeated perjury fine, cutting of tongue or death penalty. For repeated perjury on the part of a Brāhmaṇa, fine and punishment or destruction of house or dragging through a road in a naked condition.
Forgery	Death penalty.
Wilful absence for giving evidence.	Fine For a Brāhmṇa, banishment, destruction of house. *Note* : No punishment if one does not give evidence when such evidence may lead to the death of a member of any of the four castes.
Wrong decision by a person connected with trial.	Fine and dismissal.

F. OFFENCES RELATING TO EDUCATION

Not to impart education after receiving money.	Return of money plus equal amount as fine.

G. MISCELLANEOUS OFFENCES

Cheating people by sorcery	Banishment.
Use of sorcery or witchcraft for harmful purposes.	Fine.
Sale and purchase of Brāhmaṇa males or females as slaves.	Fine.

Sale of a faithful female slave against her will unless the master is in danger.	Fine of 200 Paṇas.
Instigating people to take to gambling.	Physical punishment.
Gambling conducted without king's permission.	Branding forehead with marks of dog's foot and banishment.
Breach of contract through greed.	Banishment.
Breach of rules of a union or misappropriation of union's property.	Banishment and confiscation of properties.
Non-release of mortgaged property out of greed.	Equivalent to theft.
Negligence of a partner in a partnership business.	Liable to pay compensation.
Misconduct or cheating by a partner.	Expulsion without due share of profit.

GLOSSARY

A. TERMS RELATING TO CRIMINOLOGY

The main offences are arranged in the Devanāgarī alphabetical order and their meanings noted briefly. The important terms relating to criminology are given with their meanings.

Atipātaka : Action resulting in great sin. Adultery with one's mother, daughter or daughter-in-law. For a woman, illicit relation with her son, father or father-in-law.

Adhyakṣa : Superintendent of a Department.

Anupātaka : 35 kinds of acts resulting in comparatively light sin, e.g. perjury, adultery of certain types.

Anvādhi : Mortgaging a property, mortaged by one, to another.

Abhicāra : Magical charms or rites designed to do harm to others and even to cause their death.

Arthī : Plaintiff.

Avakraya :

(i) Sale of a pledged article.

(ii) Purchasing an article without paying the price.

(iii) Purchasing an article by paying partial price.

Avasvapnikā : An incantation by which a thief used to make one asleep.

Avicitra : A kind of death penalty. In it the person, sentenced to death, is beheaded by a sword.

Ācarita : See Carita.

Ātatāyin : Dangerous enemy. Such enemies are incendiary, poisoner, one coming with a weapon to kill, robbing one of such an amount that one starves, one who takes away another person's land, abductor of one's wife.

Ādhi : Mortgage. The thing pledged as security while borrowing money.

Ārakṣaka : Guard or Police Magistrate.

Āryajārā : Appears to denote a Śūdra woman who was used by a member of a higher caste as his concubine.

Udāsthita : A mendicant or monk, fallen from his own occupation, working as a spy.

Udyānamoṣaka : Poacher.

Upadhi :

(i) A ruse adopted by the creditor for recovering a debt.

(ii) Things, borrowed by a creditor or festive occasions, not returned.

(iii) Things, entrusted by the debtor to the creditor for delivery to others but appropriated by the creditor.

Upapātaka : 49 acts resulting in comparatively lighter sin ; e.g. cow-killing, adultery etc.

Upāṃśudaṇḍa : Secret punishment.

Ubhayavetana : A spy, paid by one king, serving another king in order to supply information about the latter to the former.

Aikāgārika : A kind of thief.

Karmānta : Factory.

Karmābhigraha : Arrest of a person after considering the connected circumstances.

Kākinī : A quarter of a Paṇa which is a coin equal in value to 80 cowries.

Kula : A union having power to try cases relating to its members.

Kāpaṭika : A student trainee or assistant serving as a spy.

Kṛtya : A royal officer disowning allegiance to the king or having a seditious attitude.

Kriyā : Proof or evidence in a lawsuit.

Krītānuśaya : A title of dispute arising from the fact that the buyer in not satisfied with the quality of nature of the thing purchased.

Gajāsya : A kind of tunnel like the face of an elephant.

Gaṇa :

(1) Union of armed men having the same vocation.

(2) Union of Brāhmaṇas.

Gūḍhājīvin : Those who commit offence by earning living by clandestine means.

Gulma : Perhaps corresponding to a modern police station or outpost.

Gṛhapatikavyañjana : A cultivator, unable to earn a living by his own occupation, working as a spy with government help.

Gopa : Head of five or ten villages.

Grāmakūṭa : Village headman.

Candrārdha : A tunnel of the crescent shape.

Carita : A method, adopted by the creditor, for recovery of debt. In it, he squats at the door of the debtor or ties his own wife, son or cow in the house of the debtor.

Caritrabandhaka : A kind of mortgage. In it, the creditor may advance a big amount after keeping a small pledge or the debtor may pledge a highly precious property for a small debt. In such cases, the high reputation of the creditor or debtor is the guarantee.

Citra : A kind of death penalty in which the person sentenced to death is killed by impalement or burning.

Coragrāha : Probably a royal officer arresting thieves.

Corarajjuka : A class of royal employees. It was perhaps his duty to tie a thief with a rope.

Cauroddharaṇika : Probably a royal employee who catches thieves.

Cauroddhartṛ : Do.

Jhaṣāsya : A tunnel of the shape of the mouth of a fish.

Tattvābhiyoga : Complaint against an offender after getting evidence or suffering loss directly through his action.

Tāpsavyañjana : A hypocritical ascetic serving as a spy

Tālodghāṭinī : An incantation used by a thief to break a lock.

Tīkṣṇa : A class of spies.

Tuṣṇīmdaṇḍa : Silent punishment.

Daṇḍanāyaka : Police Chief.

Daṇḍapāśika :

(i) Perhaps the royal officer responsible for punishing a person in a criminal case.

(ii) Watchman.

Daṇḍabhogika : Perhaps identical with Daṇḍapāśika (q.v.).

Daṇḍapāruṣya : Too severe punishment for a light offence, assault.

Dāṇḍika : Police Officer.

Daśāparādhika : A royal officer who used to examine ten kinds of offences.

Divya : Ordeal accepted as proof in the absence of the usual human proofs.

Dauhsādhasādhanika : One who catches turbulent robbers.

Dauḥsādhika : Same as Dauḥsādhasādhanika.

Dyūta : Gambling with dice.

Dharma : Means of persuading a debtor to pay off the debt.

Dharmasthīya : Like modern lock-up. In it an accused under trial and a person convicted are confined so long as the fine is not paid.

Dhvajinī : Boundary fixed by trees like flagstaffs.

Nāgarika : Police Chief or Head of (Nāgarika) prisons.

Naigama :

(i) Union of merchants.

(ii) Union of men going abroad for trade.

Naidhāni : Boundary marked by subterranean things.

Pāṭaccara : A kind of thief.

Paṇa : A coin equal in value to 80 cowries.

Piśunavetrika : The royal employee who drives away undesirable elements with a cane.

Pūga : Union of horsemen or elephant-riders.

Pūrṇacandra : A tunnel like the full moon used by thieves.

Praṇidhi : Spy.

Pratibhū : Surety.

Pratirodhī : A kind of thief.

Pratyarthī : Defendant.

Pradeṣṭā : Police Magistrate.

Prāḍvivāka : Judge.

Prayojaka : An abettor of murder.

Phaṇimukha : An implement, having the shape of a snake's face, used by a thief.

Bhayavarjita : Boundary marked with the consent of both the parties.

Bhāṣā : Plaint.

Matsyinī : Boundary marked by a river or tank filled with fish.

Malimluca : Thief.

Mahādauḥsādhanika : Same as Dauḥsādhanika (q.v.).

Mahāpātaka : Grave sin. These are murder of a Brāhmaṇa, a Brāhmaṇa's drinking wine, theft of gold belonging to a Brāhmaṇa, adultery with preceptor's wife, association with the above offenders.

Mahāmātriya : A place of confinement. In it perhaps convicted persons, unable to pay fine, were kept confined.

Māṇava : A kind of robbers.

Miśra : A kind of death-penalty in which the person sentenced to death is killed after cutting off his hands, feet and other limbs.

Moṣaka : Thief.

Yogacūrṇa : A kind of magic powder, used by thieves to bring people under control.

Yogavartikā : Magic lamp used by thieves.

Rasada : A spy administering poison.

Rāṣṭrapāla : A high royal functionary whose duty was perhaps like that of *Samāhartā* (q.v.) to some extent.

Rūpābhigraha : Arrest of a person in possession of stolen articles.

Śaṃkābhigraha : Arrest on supicion. Though there is no evidence, the person concerned is arrested after observing his suspicious conduct.

Śaṃkābhiyoga : Complaint against a person on suspicion.

Śuddha : A kind of death-penalty which may be of two kinds viz. *vicitra* and *citra* or *vicitra* (q.v.).

Śreṇī : Union of craftsmen like weavers.

Sattrī : One ostensibly an orphan, but really a spy.

Sabhika : One who keeps a gambling house.

Sādhyapāla : Bailiff.

Sañcāra : A class of roving spies.

Sāmanta : Neighbour, king of a neighbouring state.

Samāhartā : Collector General. Besides collecting revenue he used to observe misconduct of the public and anti-state activities.

Sambhūyasamutthāna : Partnership business.

Samvidvyatikrama : Breach of contract.

Samsthā : A class of spies They used to stay at one place.

Samāhvaya : Animal-betting

Sāhasa : Violent crime before people, stealing things meant for public use, adultery with other's wives.

Setu : A channel for the flow of water.

Steya : Theft.

Sthānapāla : Perhaps, guard of a place.

Sthānika : Head of an urban ward or district.

Vākpāruṣya : Abuse, harsh speech.

Vicitra : Same as *Citra* (q.v.).

Vivāsana :

(i) Banishment.

(ii) Stripping one of clothes.

(iii) Demolishing one's house.

Vaidehakavyañjana : A merchant, having lost his livelihood, serving as a spy.

Vyavahāra :

(i) Social intercourse ; matrimonial relation etc.

(ii) Judicial proceedings or trial. Removal of doubts in a dispute with the help of documents.

Vyāghravaktra : A kind of tunnel like a tiger's face.

Vrāta :

(i) Gang of men holding various weapons.

(ii) Union of people of different callings and of different castes, earning a living by physical force.

Vrātya : Probably a section of non-Aryans who disturbed the religious rites of the Aryans.

B. 'TERMS RELATING TO SEX-LIFE.

Difficult and technical words, occurring in the works on erotic science and literary works, are listed in Devanāgarī alphabetical order with corresponding meaning.

Ajjukā : Courtesan.

Añcita : A kind of kiss.

Anaṅgāvaha : Exciting passion.

Aniyoga : Unfit for sexual union.

Anekaparigrahā : A harlot attached to many men.

Anyā : A kind of heroine ; another's wife.

Anyoparuddhā : A prostitute perhaps kept for enjoyment by a particular person.

Aparigrahā : A harlot not attached to any man.

Apavīrya : One devoid of sexual vigour.

Apahastikā : A kind of patting or caressing a woman.

Abhisārikā : A woman who finds out her husband or asks him to meet her at a temple etc.

Ayantrita : A kind of sexual union.

Ardhapīḍitaka : A kind of sexual intercourse.

Avalambitaka : A mode of sexual union.

Aśva : A class of men.

Āryajārā : An appellation of a Śūdra woman. It seems that Śūdra women used to be in the keeping of the members of the higher castes.

Āsyamaithuna : A sex-act into the mouth of a woman.

Āhārya : A kind of coupulation.

Indrāṇī : A kind of sexual union.

Indriyakṣaya : Loss of sexual vigour.

Ucchūnaka : A kind of toothmarks. It it, red scars appear.

Ujjvala : Same as *Mādhuryarasa*.

Utpīḍitaka : A kind of sexual union.

Utphullaka : A kind of copulation.

Uttaracumbana : Kiss on the upper lips.

Udghṛṣṭaka : A kind of embrace caused by mutual rubbing in a crowd.

Ūrūpagūhana : A kind of embrace in which one presses the thighs of another.

Ekaparigrahā : A prostitute attached to one man.

Aupariṣṭaka : Sex-act into the mouth of an eunuch.

Karkaṭa : A kind of sexual intercourse.

Kalahāntarita : Separated from husband due to quarrel and hence repentant.

Kalāgoṣṭhī : A meeting for display of arts (?).

Kartarī : An act in sexual intercourse.

Kākila : Oral gratification of sex-desire.

Kāmakalā : Erotic art.

Kāmakāra : Forcible enjoyment of a woman, rape.

Kāmatantra : Erotic science.

Kāmapiśāca : Passion conceived as an evil being.

Kāmipratyavara : A mean lover.

Kilakiñcita : Mixture of smile, dry weeping, anger due to joy at union with the lover.

Kīla : An act in sexual union.

Kukundara : The space between the lower addomen and the thighs.

Kuṭṭamita : Feigning anger inspite of joy.

Kumbhadāsī : A female attendant for drawing water. A kind of prostitute perhaps kept as an attendant.

Kūrpāsaka : Sort of bodice for a woman.

Kṛtakarati : False sex-enjoyment.

Kṛtagranthika : A mode of a man's seizing his partner's body in sexual union.

Kṛtrima : A mode of sex-act.

Kolacarva : A kind of tooth-marks of a man on the body of his partner.

Kaupīna : Secret spot in the the body or its cover.

Kaumāraka : Youngster.

Kriyāniṣpatti : Completion of sex-act.

Krauñca-rasāyana-yoga : Āyurvedic medicine counteracting old age.

Kṣīnendriya : One whose sex-power is weak.

Kṣīranīra : A kind of close embrace in which the bodies of the partners are united like milk and water.

Kṣetraja : A son begotten by one on the wife of another.

Khaṇḍābhraka : Tooth-marks like bits of cloud.

Khaṇḍitā : A woman angry at the sight of nail-marks or tooth-marks of another woman on the body of her husband.

Khalarata : Sexual union with an uncultured woman.

Gaṭṭitaka : Kiss of an experienced man. In it there is mere touch.

Gaṇikādāsī : A kind of prostitute.

Gāṇikya : Name of a group of courtesans.

Gāndharva : Love-making, music. A form of marriage in which marriage takes place by mutual consent.

Gūḍhaka : A kind of tooth-marks. In it there is no scar.

Gūḍhaja : A son begothen by a man and a woman during the absence of her husband.

Goyūthika : A mode of sexual union.

Cakra : A kind of embrace.

Cālitaka : Directing one's attention to another direction.

Citriṇī : A class of women.

Chāyācumbana : Kissing a shadow.

Jaghanotseka : Heaviness of buttocks.

Jaghanopagūhana : A kind of embrace in which one presses the buttocks of another.

Jarākaupīna : Old age shameful like the private parts of the body.

Jñātireta : A son begotten on a woman by a kinsman excepting her husband's brother.

Jṛmbhitaka : A kind of sexual union.

Tilataṇḍulaka : A kind of embrace in which one presses the thighs and the arms of the other.

Tṛtīyā Prakṛti : A human being having the characteristics of both a male and a female.

Divāvihāra : Sexual union by day.

Duṣṭagāndharva : Reprehensible means of love-making.

Devadāsī : A girl engaged in a temple for dancing.

Dvandvarati : Secret love.

Dhenuka : A mode of sexual union.

Nakula : A kind of embrace.

Nagnikā : A girl before the commencement of the menstrual flow.

Naṭeraka : Son of a dancing girl or actor.

Nimittaka : Nominal kiss by an inexperienced man.

Nivṛttakāmatantrā : A woman who has stopped sexual enjoyment.

Patākāveśyā : A harlot attracting people by hoisting a flag at a convenient place.

Padmāsana : A kind of sex-act.

Padminī : A class of women.

Parāvṛttaka : A kind of sex-act.

Pārāvata : A kind of embrace.

Pīṭhamarda : Associate of the hero in a drama. He helps the hero in securing a woman fit for enjoyment.

Pīḍita : A kind of kiss.

Pīḍītaka :

(i) A kind of sex-act.
(ii) A kind of embrace in which a woman is lightly pressed against a wall.

Punarbhū : Remarried widow.

Pumścalị : A harlot running after a man.

Paiśāca : A form of marriage in which a girl is enjoyed when she in asleep or intoxicated and then married.

Poṭārata : Enjoyment of a low class woman.

Prakāśavinaṣṭā : An unchaste woman who goes astray after openly breaking the family tie.

Pragalbhā : A kind of heroine. She is fully experienced and bold.

Pracchannapuṃścalīga : One who secretly visits prostitutes.

Praṇaya : Present indicating love.

Praṇīta : A son begotten on a married woman by a person other than her husband.

Pratibodhaka : Kissing a woman in sleep by a man.

Baddhamuṣṭi : A mode of tooth-mark, looking like a coral.

Prasṛtaka : A kind of patting or caressing a woman.

Prahaṇana : Patting a woman by a man in sex-act.

Prekṣaṇaka : A show.

Proṣitayauvanā : A woman whose youth is gone.

Baddhamusti : A mode of seizing a woman in sexual union.

Bandhakīpoṣaka : One who attracts people by beautiful damsels and carries on business by arranging for sexual union.

Bāhyarata : External sex-act.

Bandhakī : A woman who, being unable to repay debt, has been enslaved by the creditor. According to some, a harlot passionately attached to many people.

Bāḍavaka : A kind of sex-act.

Bindumālā : A kind of tooth-marks.

Bibboka : Disregard of desired things due to pride.

Bhagayoga : Same as *latāsādhana* (q.v.).

Bhāva : The first agitation in the unagitated mind of a heroine.

Bhāvabahiṣkṛta : One for whom there is no love.

Bhāvaśuddhi : Purity of mental attitude or love.

Bhugnaka : A kind of sex-act.

Makarayaṣṭi : A stick indicating a man. The image of a shark was placed on it.

Maṇimālā : A kind of tooth-marks.

Madanakarma : Love.

Madanatantra : Erotic science.

Madhukoṣaka : A drinking vessel.

Madhura : Same as *Mādhurya-rasa.*

Madhyā : A kind of heroine ; slightly experienced.

Manasijakadana : Grief caused by love.

Mādhurya-rasa : Erotic sentiment.

Mukhabhagā : A woman satisfying the carnal desire of a man by her mouth.

Mugdha : A kind of heroine who is inexperienced.

Muṣṭi : A kind of patting of woman by man.

Mṛgī : A class of women.

Mṛdu : A kind of kiss.

Moṭṭāyita : Expression of affection by ear-scratch etc. on remembering the lover.

Yauvanakarma : Rejuvenation.

Yauvanabibhrama : Gestures indicating passion in youth.

Rajoparodha : Menopause.

Rativyākṣepa : Obstruction to sex-enjoyment.

Ratiśauṇḍīrya : Skill in sex-act.

Rahonaipuṇya : Skill in sex-act.

Rākṣasa : A form of marriage in which a man forcibly carries away a girl and then marries her.

Rāgavat : A kind of sex-act.

Rūpadāsī : A kind of prostitute.

Latāveṣṭitaka : A kind of embrace in which a woman clasps a man like a creeper.

Latāsādhana : A Tāntric rite centring round the female organ.

Lalāṭikā : A kind of embrace in which the partners lightly press each other's face, eyes and forehead.

Laiṅgakṣobhaṇa : An act in sexual union.

Vaḍavā : A class of women.

Vāḍavaka : A mode of sexual union.

Vāramukhyā : Chief of prostitutes.

Vasakasajjā : Waiting being well dressed for the husband.

Vicchitti : Tastefully putting ornaments etc. designed to enhance one's beauty.

Vijṛmbhitaka : A kind of sex-act.

Viṭa : Paramour ; passionate rogue. Associate of a king or characterless young man. Accomplice of a prostitute.

Vidūṣaka : Associate of a king in a drama, exciting laughter by dress or speech.

Vidruma : A type of tooth-marks made by a man on his partner's body in sexual union.

Vipralabdha : A woman deceived by the lover's non-arrival at the fixed place.

Vyavahita : A mode of sex-act.

Viṣakanyā : A poisoned woman with whom an enemy is induced to cohabit and die as a result.

Vibhrama : Putting ornaments on wrong places due to hurry at the arrival of the lover.

Viddha : An act in sexual intercourse seemingly painful.

Viddhaka : A kind of embrace seeming to be caused by a sudden push.

Vipralabdhā : Waiting in vain for the lover's arrival at the fixed place.

Vṛkṣādhirūḍhaka : A kind of embrace in which a woman seems to kiss a man as if by climbing a tree.

Vṛṣa : A class of men.

Veṇudaritaka : A kind of sex-act. A mode of a man's seizing the woman's body in the sex-act.

Śaṃkhinī : A class of women.

Śabarotsava : Part of the festivities on the Daśamī day of Durgā-pujā. In it people, wearing leaves and smeared with mud, abuse one another.

Śaśaka : A class of men.

Śilpakārikā : Ostensibly engaged in craft, but secretly a prostitute, demi-monde.

Śuddha : A class of sex-acts.

Śūlacitaka : A kind of sex-act.

Śauṇḍika : Distiller or seller of wine.

Saṃkīrṇa : A class of sex-acts.

Saṃkrānta : Kissing an image.

Saṃghāṭaka : A mode of sexual union.

Saṃdaṃśika : A seemingly painful act in sexual union.

Sama : A kind of kiss.

Samakṛṣṭi : A mode of a man's seizing the woman in sex-act.

Samarata : A kind of sex-act.

Samputaka :

(i) Kiss on both lips simultaneously.

(ii) A mode of sexual union.

Samprayoga : Sex-act.

Sambhalī : A harlot procuring passionate men.

Sahoḍhaja : A son of a woman who was pregnant before marriage.

Sādhāraṇī : A kind of heroine, prostitute.

Śiśnadeva :

- (i) One who plays with one's genital organ.
- (ii) One whose deity is the phallus.

Sītkāra : A woman's sound indicating pain or pleasure in the sex-act.

Subhaga : A man having sexual vigour.

Stanāṃkura : Nipple.

Stanāliṅgana : Embrace of a man by a woman with her breasts.

Strīkitava : Abduction of women.

Strī-saṃgrahaṇa : Adultery, incest, rape etc.

Sthirarata : A mode of sexual union.

Spṛṣṭaka : A kind of embrace which looks like ancidental touch.

Sphuritaka : Tremulous kiss by an inexperienced man.

Svayaṃgraha : Rape.

Svīyā : A kind of heroine, one's own wife.

Svairiṇīja : Son of an unchaste woman.

Haṃsa : A kind of embrace.

Hastinī : A class of women.

Hāva : A heroine's movements of the brows and eyes etc. indicating her desire for union with the lover.

SELECT BIBLIOGRAPHY

ORIGINAL SANSKRIT WORKS

Anaṅgaraṅga (Kalyāṇamalla) : Ed. S. R. S. Kusal, Lahore, 1890 Eng. trs. by R. Burton, London, 1885.

Arthaśāstra (Kauṭilya) : Ed. G. Sastri.

Deśopadeśa (Kṣemendra) : Kāvyamālā ed.

Kalāvilāsa (Kṣemendra) : Kāvyamāla ed., i.

Kāmasūtra (Vātsyāyana) : Ed. M. Pal, Calcutta (with *Jayamaṅgalā* comm.).

Kandarpacūḍāmaṇi (Vīrabhadra) : Ed. S. Kusal, Lahore, 1926.

Kuṭṭanīmata (Dāmodaragupta) : Kāvyamālā ed., 1887. Beng. trs. T. Roy.

Manusmṛti : N. S. P. ed., Bombay, 1933.

Nāgarasarvasva (Padmaśrī) : Ed. Sharma, Bombay, 1921 (with comm. of Jagajjyotirmalla).

Pañcasāyaka (Jyotirīśvara) : N. S. P. ed., Bombay, 1949.

Ratimañjarī (Jayadeva) : *Kāvyasaṁgraha*, iii. Calcutta 1886.

Ratiramaṇa (Siddha Nāgārjuna) : Calcutta, 1909.

Ratirahasya (Kokkoka) : Ed. D. Parjuli, Lahore. Eng. trs. A. Comfort.

Ratiratnapradīpikā (Devarāja) : with Eng. trs. K. R. Aiyangar, Mysore, 1923.

Ratisāra (Nāgārjuna) : Ed. Schmidt., 1909.

Ratiśāstra (Nāgārjuna) : See Schmidt. with comm. of *Smaratattvaprakāśikā* of Rāvaṇārādhya.

Samayamātṛkā (Kṣemendra) : Ed. Durgaprasad & Parab, Bombay, 1925.

WORKS IN ENGLISH AND GERMAN

Archer, W. G. : *Central Indian Painting*, London. *Kangra Painting*.

Bhattacharya, N. N. : *History of Indian Erotic Literature*, New Delhi, 1975.

Chakladar, H. C. : *Social Life in Ancient India*, Calcutta, 1954.

Chakravarti, C. : *Sex-life in Ancient India*, Calcutta, 1963.

Chunder, P. C. : *Kauṭilya on Love and Morals*, Calcutta, 1970.

Das, S. : *Crime and Punishment in Ancient India*, New Delhi, 1977.

De, S. K. : *Treatment of Love in Sanskrit Literature*, Calcutta, 1929. *Ancient Indian Erotics and Erotic Literature*, Calcutta 1959.

Ghosh, A. : *Ratiśāstra*, Delhi.

Jha, A. : *Sexual Designs in Indian Culture*, New Delhi, 1979.

Kane, P. V. : *History of Dharmaśāstra*, Vols, ii, iii. Poona.

Kangle, R. P. : *The Kauṭilya Arthaśāstra*, Part III, A Study, Bombay, 1965.

Khandalavala, K. : *Pahari Miniature Painting*, Bombay, 1958.

Mehta, N. L. : *Studies in Indian Painting*, Bombay, 1926.

Meyer J. J. : *Sexual Life in Ancient India*, Delhi, 1971.

Moti Chandra : *Studies in Indian Painting*, 1974.

Schmidt, R. : *Liebe Und Eha im atten Indien*, Berlin, 1904. (Major portion—translation of selected Sanskrit passages).

Rawson, P. : *Tantra : The Indian Cult of Ecstasy*, London. *Wiener Zeitschrift für die Kunde des Morgenlandes*, xviii, 1904 ; xxiii. 1909 (Part of Nāgārjuna's *Ratiśāstra* and trs., with *Smaratattva-prakāśikā* comm.).

WORKS IN BENGALI

Bandyopadhyaya, Sures Chandra : *Tinhājār Vacharer Lokāyata Jīvan*, Calcutta, 1383 B.S.

Basu, Sukumar : *Aparādha O Aparadhī*, Calcutta, 1382 B.S.

Ghosal, Panchanan : *Aparādha-vijñāna*, Vols. I-VIII.
: *Aparādha-tattva*.

PAPERS

Annals of Bhandarkar Oriental Res. Institute (Diamond Jubilee Vol.), Poona, 1978.
(Dange : Sex in Stone and the Vedic Mithuna.
Tilakasūri : Kālidāsa's Poetic Art and Erotic Traits).

Journal of Anthropological Society, Bombay, 1892 (Peterson's paper—Vātsyāyana on the Duties of a Hindu Wife).

Journal of Bombay Branch of Royal Asiatic Society, 1892 (Courtship in Ancient India).

Marg, Bombay XVI—iii, June, 1963 (M. Anand—The Lesser Vehicle etc) XVIII—ii, March, 1965 (M. Anand's paper entitled Plastic Situation ; A. Roy's paper entitled. Sculptures of Nāgārjunakoṇḍā).

CHRONOLOGY

The dates of the principal works, used as source-books in this work, are as follows. In this matter, the opinions of the specialists in the respective fields have been taken as authoritative.

B.C.

C. 2500 (or 2000)-750—Origin and evolution of present *Ṛgveda-saṃhitā* According to Winternitz).
After Ṛgveda Saṃhitā—present *Atharvaveda*,
Between the period of the completion of the collection of Ṛgveda Saṃhitā and the rise of Buddhism (According to Winternitz)—Brāhmaṇas.

C. 600-400—Oldest Dharmasūtras (According to P. V. Kane).

486—Siddhārtha's attainment of Buddhahood (According to Cantonese tradition).

C. 4th. cent.—Pāṇini.
—*Arthaśāstra* of Kauṭilya.

C.B.C. 300-100 A.D.—Dharmasūtra of Śaṃkha--Likhita.

C.B.C. 200—2nd. cent. A.D.—*Manu-Smṛti* (present form according to Kane).

A.D.

C. 100-300—Yājñavalkya-smṛti.
—Viṣṇu-dharmasūtra.

C. 1st cent. (1st. half)—Hāla, author of *Gathāsaptaśatī*.

C. 1st. cent—2nd. cent. or earlier—final form of *Rāmāyaṇa* (Acc. to Winternitz).
—*Avadāna-śataka*.

C. 100-400—Nārada-smṛti.

C. 300—Upper limit of the time of composition of the early extant Purāṇas.

C. 3rd. cent.—Vātsyāyana's *Kāmasūtra*.

C. 3rd. or 4th. cent.—*Kāmandakīya Nītisāra*.

C. 4th. cent.—Bhāsa (That he is pre-Kālidāsa is certain).

—Final form of the *Mahābhārata* (According to Winternitz).

C. 4th. cent.—Kālidāsa.

C. 4th.-5th. cent.—Bharata's *Nāṭyaśāstra* (According to some).

C. 5th.-6th. cent.—Origin of basic Tantras.

—Varāhamihira's *Bṛhat-saṃhitā.*

C. 400-600—*Katyāyana-smṛti* (on Vyavahāra).

C. 6th. cent.—Śūdraka's *Mṛcchakaṭika.*

—(middle) lower terminus of the date of the *Pañcatantra.*

634—Aihole Inscription. Mentions Kālidāsa. Therefore lower terminus of the time of Kālidāsa.

7th. cent.—lower terminus of the age of composition or compilation of the extant early Purāṇas.

—Harṣa's dramatic trilogy, viz. *Ratnāvalī, Priyadarśikā, Nāgānanda.*

—Bāṇabhaṭṭa's *Kādambarī*, *Harṣacarita.*

—Subandhu's *Vāsavadattā.*

4th. cent.—Daṇḍin (*Daśakumāra-carita*).

C. 800—Lower terminus of date of composition of the *Bhāgavata-purāṇa.*

8th.-9th. cent.—Dāmodaragupta (*Kuṭṭanīmata*).

9th.-10. cent.—Rājaśekhara (*Karpūramañjarī*).

10th. cent.—lower terminus of the time of composition of the monologue plays collectively called *Caturbhāṇī.* According to some, these were composed between 350-200 B.C. Others think that these were composed after the *Nāṭyaśāstra* of Bharata.

—Dhanañjaya (*Daśarūpaka*).

—*Jasaharacariu.*

—Śrīdharadāsa's *Sadukti-karṇāmṛta.*

—Kokkoka's *Ratirahasya.*

—Śaṃkhadhara's *Laṭakamelaka.*

11th. cent.—Bilhaṇa's *Caurapañcāśikā.*

—Kṣemendra.

—*Karakaṇḍacariu.*

—Vijñāneśvara's *Mitākṣarā* comm. on the *Yājñavalkya-smṛti.*

1063-82—*Kathāsaritsāgara.*

12th. cent.—Kalhaṇa's *Rājataraṅgiṇī.*

1100-1150—Jīmūtavāhana's *Dāyabhāga.*

C. 13th. cent.—Yaśodhara (Commentator of the *Kāmasūtra*).

C. 10th.-14th. cent.—*Nāgarasarvasva of Padmaśrī.*

14th. cent.—Viśvanātha's *Sāhityadarpaṇa.*

—Jyotirīśvara's *Pañcasāyaka.*

—Siṃhabhūpālā's *Rasārṇava-sudhākara.*

—Kaviśekhara's *Dhūrta-samāgama.*

—Mādhavācārya's *Parāśara-mādhavīya* comm. on the *Parāśara-smṛti.*

1400—lower terminus of the age of composition or compilation of later Purāṇas.

1446 (d.)—Devarāja (*Ratiratna-pradīpīka*).

15th.-16th. cent.—Rupa Gosvāmin (*Ujjvala-nīlamani*).

16th. cent.—Kalyāṇamalla (*Anaṅgaraṅga*).

—Kavitārkika (*Kautuka-ratnākara*).

1577—Vīrabhadra (*Kandarpa-cūḍāmaṇi*).

17th. cent.—Sāmarāja Dīkṣita (Dhūrta-nartaka).

18th. cent.—Ali Akbar Shah (*Śṛṅgāra-mañjarī*).

C. 19th. cent.—According to some, *Śukranīti-sāra.*

INDEX

'A'

ABhijñānaśakuntala (Śakuntalā) 20, 68, 79, 117, 131, 150
Abhiśataka 21
Abuse 55
Ādhi 44
Adultery 57 f.f., 81, 140
Agnipurāṇa 5 7, 11, 50, 51, 59, 78, 97
Amaruśataka 115
Anaṅgaraṅga 95
Animal-betting 64, 65
Aparārka 10, 11, 27, 47, 52, 67
Āpastamba 40
Āpastamba-dharmasūtra 12, 50, 52, 56, 58, 68
Ārakṣaka 69
Archu, W. G. 130
Ardharārīśvara 130
Arrest 68
Arthaśāstra 4, 19, 22, 23, 24, 29, 36, 37, 53, 59, 61, 62 f.n., 63, 65, 67, 73, 78, 83, 84, 87, 88, 97, 139, 142, 144
Āryajārā 100
Āryāsaptaśatī 115
Aśoka 72
Aspasia 90
Aśvaghoṣa 118
Āsyamaithuna 139
Ātatāyin 33, 51, 52, 78
Atharvaveda 2, 4, 8, 76, 97, 100
Aṣṭādhyāyī 19, 97
Atri 10
Aupaniṣadika 106
Aupaniṣtaka 126
Aoakraya 42
Avimāraka 98

'B'

Bāhyarata 94
Bālakrīdā 47
Bāṇabhaṭṭa 19, 117, 151
Bandhakīpoṣaka 88
Barnes 10
Bhāgavata 149
Bhagavadajjukīya 91
Bhagayoga 111
Bhaiṣajya-ratnāvalī 109
Bhakti 123
Bhaktisūtra 123
Bharadvāja-gṛhya 100
Bhartṛhari 115, 116, 118
Bhāryādhikārika 105
Bhāsa 20, 80, 81, 98, 150
Bhavabhūti 150
Bhāvaprakāśa 109
Bhavisayattakahā 98
Bhaviṣyapurāṇa 51
Bhikkupātimokkha 81
Bhikṣuśī-vibhaṅga 20, 81
Bhrūṇa 52
Bilhaṇa 20, 80, 114, 116, 151
Boundary dispute 33
Brahmagrabha 10
Bṛhadāraṇyakopaniṣad 11, 92, 100, 110, 144

Bṛhadyama 141
Bṛhannāradīya Purāṇa 11
Bṛhaspati (*Bṛhaspati-smṛti* not separately written) 6, 8, 9, 14, 19, 21, 25, 30, 34, 36, 38, 39, 42, 43, 49, 50, 51, 53, 55, 57, 66
Bṛhatsamhitā 71
Bribery 38
Britsault 132 f.n.
Buddhacarita 118

'C'

Cakradatta 109
Cārudatta 20, 80, 81
Caturbhāṇī 20, 90, 98, 117
Caurapañcāśikā (Also called *Caurī-surata-pañcāśikā*) 20, 80, 114, 151
Central Indian Painting 130
Caitanya Movement 123
Chāndogya 144
Citrarata 126
Contraception 108
Contract 47
Coragrāha 67
Cauroddharaṇika 67
Corarajjuka 27, 67
Coroddhartā 67

'D'

Damdupat 32
Dāmodaragupta 83, 97, 127
Daṇḍa 5, 7
Daṇḍabhogika 23
Daṇḍanāyaka 68
Daṇḍapāruṣya 35, 60
Daṇḍapāśika 23
Daṇḍaviveka 10, 14, 19
Dāṇḍika 23, 68
Daṇḍin 19, 117, 151
Daśakumāra-carita 19, 68 69, 80, 81, 98, 117, 151
Dāśāparādhika 23
Daśarūpaka 96, 111, 112, f.n., 113 f.n.
Dausādhasādhanika 68
De, S. K. 118
Debt 29 ft.
Debt Settlement Board 32
Defalcation 62
Desai, D. 131 f.n., 132 f.n, 134 f.n.
Deśopadeśa 83, 84, 86, 97
Devadāsī 88, 133
Dhammapada 20, 81, 82, 87
Dhammapāla 82
Dhoyī 115
Dhūrtanartaka 98
Dhūrtasamāgama 91, 98
Dhūrtaviṭa-samvāda 90
Divyāvadāna 20, 80, 104 f.n.
Duṣyanta-Śakuntalā 149
Dyūta 64

'E'

Embrace-kinds of 124, 127
Erotics-works on 92 ff
Erotic sentiment 123
Erotic Sculpture of India 131 f.n.
Erotic painting 128
Espionage 73
Ethics of India 123

'F'

Fa-hien 8

'G'

Gambling 64
Gaṇa 47, 48
Gaṇikādhyakṣa 88
Gārgya 10
Gāthāsaptaśati 20, 82, 119, 121, 122
Gautama 26, 40
Gautama-dharmasūtra 10 32, 53, 58, 100, 103
Geisha girls 87
Genetics 110
Gītagovinda 115, 118, 119, 151
Gopa 24
Govardhana 115
Goyūthika 104, 119, 137
Grāmadosa 24
Grāmakūṭa 62
Gūḍhaja 103
Gūḍhājīvin (*Gūḍhājīva*) 62, 79
Gulma 67

'H'

Hair-beautification of 147
Hāla 20, 98, 115, 119
Hammurabi's Code 6
Harṣa 116, 117
Harṣacarita 19, 71
Hāsyārṇava 91
Heroines-types of 111
  —relation with lover 112
  —behaviour-patterns of 113
Hindu Ethics 123
History of Dharmaśāstra 52 f.n.
History of Sanskrit literature 118
Homosexuality 139, 142

'I'

Indus Valley Civilisation 1
Injury 49
Intercourse-see Sexual intercourse

'J'

Jāra 99
Jasaharacariu 20, 82
Jātaka 82
Jayamaṅgalā 94
Jīmūtavāhana 18
Jñātireta 101
Judicial proceeding 21

'K'

Kādambarī 19, 79, 98, 117, 151
Kākila 104
Kalatrapatrikā 106
Kalāvilāsa 93, 87, 97
Kalhaṇa 20
Kālidāsa 20, 92, 98, 114, 115, 124, 130, 149
Kālitantra 111
Kālivarjya 52
Kāmakalā 104
Kāmakalpa, Incredible India 131 f.n.
Kāmandaka 13
Kāmandakīya Nītisāra 19
Kāmasūtra 83, 84, 92, 94, 99, 124, 132, 137, 139, 142
Kandarpacūḍāmaṇi 95
Kane 24, 68
Kanyāsamprayuktaka 104
Kāryacintaka 48
Karakaṇḍacariu 20, 82, 98

Karpūramañjarī 20, 82, 98, 119
Kaṭāhajātaka 82
Kāṭhaka Saṃhitā 52
Kathākośa 20, 80
Kathārṇava 80
Kathāsaritsāgara 23, 80, 81, 90, 98
Kātyāyana (*Kātyāyana-smṛti* not separately written) 6, 9, 12, 19, 27, 30, 31, 32, 33, 34, 38, 39, 42, 43, 47, 48, 49, 50, 51, 55, 56, 57, 67
Kauśikasūtra 100
Kauṭilya 4, 5, 10. 11, 12, 19, 22, 27, 28, 32, 34, 36, 37, 38, 49, 56, 61, 62, 64, 69, 71, 75, 140, 141, 144, 145
Kautuka-sarvasva 91, 98
Kautuka-ratnākara 91, 98
Khajuraho 131 f.n.
Khaṇḍābhraka 95
Khandalavala 130
Kiss—kinds of 125
Kokkoka 92, 93
Konarak Sun Temple of Love 131 f.n.
Kṛṣṇa-gopī 144
Kṛtya 61
Ksemendra 83, 87, 97
Kṣetraja 103
Kula 23
Kulāyaka Jātaka 82
Kulika 37
Kullūka 14, 52, 67, 103
Kumārasambhava 116, 118, 149
Kuṭṭanīmata 83, 94, 96, 97, 126

'L'

Lal, K. 131 f.n.
Lalla Dīkṣita 80
Laṭakamelaka 91, 98
Latā-sādhana 111
Legge 8
Lex talionis 6
Liṅgakṣabhna 95
Litigation 66

'M'

Madanaratna 55
Madhukoṣaka 79
Madhura-rasa 123
Māgha 116
Mahābhārata 2, 3, 4, 7, 13, 19, 26, 51, 52, 53, 64, 77, 92 f.n., 97, 101, 102, 123, 133, 138, 149
Mahābhāṣya 19, 47, 77, 79, 88, 97, 100
Mahādauḥsādhasādhanika 68
Mahānagna 100
Mahānirvāṇa 111
Mahāsila-jātaka 82
Mahilāmukha-Jātaka 82
Maithuna—kinds of 140
Mālatīmādhava 151
Mālavikāgnimitra 71, 130
Mānava 28, 79
Māṇḍavya 25
Manu (*Manu-smṛti not separately written*) 6, 7, 8, 9, 10, 11, 12, 13, 14, 18, 24, 27, 28, 30, 32, 34, 35, 36, 38, 39, 42,

43, 46, 47, 49, 52, 53, 56, 58, 60, 64, 66, 71, 72, 75, 103, 133, 140, 141, 143

Marriage—forms of 103

Master and servant 39

Matsya-purāṇa 7, 14, 36, 40, 51, 141

Mayamata 136

Mclenman 102 f.n.

Medhātithi 10, 11, 14, 44

Megasthenes 8

Meghadūta 114, 131, 150

Mehta, M. L 130

Mehta, R. J. 131 f.n.

Men—classification of 106

Meyer 28, 142 f.n.

Mīmāṁsāsūtra 62 f.n.

Mitākṣarā 12, 18, 33, 35, 44, 47, 48, 50, 51, 60, 67, 68

Mithuna (*Maithuna*) 135 ff

Mortgage 44 f

Moti Chandra 130

Mṛcchakaṭika 7, 12, 20, 65, 68, 71, 80, 81, 89, 98, 117, 151

Mukhabhagā 139, 142

Mudrārākṣasa 88

Mūladeva 80

Murder 50 ff, 81

'N'

Nābhikṣobhaṇa 94

Nāḍikṣobhaṇa 93

Nāgaraka 119

Nāgarika 68

Nagnikā 103

Naigama 47

Nail-marks 125

Naiṣadha-carita 116, 118

Nala-Damayantī 149

Nārada (*Nārada-smṛti* not separately written) 6, 8, 19, 24, 33, 38; 39; 42, 43, 46, 49, 55, 56, 57, 58, 59, 60, 64, 65, 67, 139, 141, 142

Nāṭyaśāstra 93, 96, 97, 111, 112 f.n., 113 f.n.

Nīlakaṇṭha 113

Nīvi-mokṣa 118

Nyāya 22

'P'

Pādatāḍitaka 84, 91

Padāvalī 144

Padmaśrī 93

Pag-sam-jang-Jang 121

Pāhāri Miniature Painting 130

Pānakuṭi 82

Pākhaṇḍin 48

Pañcasāyaka 94

Pañcatantra 23, 69

Pañcatattva 11, 131

Pāṇini 19, 47, 77, 97

Pāpa (*Pātaka*) 16, 17

Pāradārika 105

Parāśara-mādhava 11, 41, 42, 60

Pariśiṣṭaparvan 90

Partenership 46

Pat—kinds of 126

Patañjali 77, 97

Pātimokkha 20, 81

Pavanadūta 115

Perverse sex-act See Sexual intercourse

Phryna 90
Physical charm—how to increase 146
Piśunavetrika 68
Piṭhamarda 85, 86
Police 66
Prāḍvivāka 21
Pradeṣṭṛ 24, 62
Praṇaya-kalaha 126
Prāṇatoṣiṇī 111
Praṇīta 101
Pratibhū 31
Prāyaścitta 7, 16, 17
Prāyaścittaviveka 50, 51
Prison 71
Priyadarśikā 117
Prakash, V. 131 f.n., 132 f.n., 134 f.n.
Primitive Marriage 102 f.n.
Prostitution (prostitute) 15, 40, 83, 84, 87 ff., 97, 98, 99
Pūga 23, 47, 48
Punarbhū 104
Punishment 5 ff.
Purāṇa 122
Purchase 41
Purūravas-Urvaśī 148
Puruṣa-parīksā 20, 80
Puruṣāyita 118

'R'

Rāgaśekhara 94
Raghunandana 11, 53
Raghuvaṃśa 71, 116, 118, 124, 130, 149
Rājaśekhara 20, 117
Rājataraṅgiṇī 11, 20, 42, 68, 88
Rāmāyaṇa 2, 19, 77, 97, 101 138, 139, 149
Rasaratnasmuccaya 109, 110
Rasārṇavasudhākara 96, 111 f.n., 112 f.n.
Rāṣṭrapāla 63
Rati-līlā 136
Ratirahasya 92, 104 f.n.
Ratiratna-pradīpikā 94
Ratiśāstra 95, 106, 107, 108
Ratnāvalī 98, 117
Rawson, P. 130
Ṛgveda 1, 19, 64, 76, 97, 99, 140, 143, 148
Robbery 26
Ṛtusaṃhāra 115

'S'

Śabarabhāṣya 12 f.n., 62 f.n.
Sabhika 64
Saduktikarṇāmṛta 89, 98 117, 119 f.f.
Sagara 25
Sāhasa 23, 37 f.
Sāhityadarpaṇa 96, 111, 112 f.n., 113 f.n.
Sahoḍhaja 103
Sale 41
Samāhartā 24, 62, 63, 74
Samāhvaya 64
Samayamātṛkā 83, 84, 86, 97
Samayasyānapākarma 47
Saṃcāra 73
Saṃghāṭaka 104, 119, 137
Śaṃkābhiyoga 69
Śāṃpayogika 104, 124
Saṃsthā 73, 74
Saṃvarta 51

Saṃvidvyatikrama 47
Ṣaṇmukhakalpa 19, 28, 79, 80
Śāṅkhāyana-gṛhya 100
Śatapatha (Brāhmaṇa) 19, 52, 77, 100, 143, 144, 148
Sattasaī 98, 115
Saundarananda 119
Sāvitrī-Satyavān 149
Sects (Śiva, Śākta etc.) 3
Sedition 36
Service 40
Sexual intercourse—modes of 125, 136.
 —perverse 139
Sexual Life in Ancient India 142 f.n.
Sexual vigour—how to increase 146
Shakespeare 30
Śilpa-prakāśa 136
Śilparatna 136
Śilpaśāstra 136
Śiśnadeva 99
Śiśupālavadha 116
Sītkāra 126
Śivadāsa 80
Smṛticandrikā 26, 27, 51, 55
Śreṇī 23, 47, 48
Śrīdharadāsa 89
Śṛṅgārbhūṣaṇa 106
Śṛṅgāramañjarī 95
Śṛṅgāra-rasāṣṭaka 115, 116
Śṛṅgāraśataka 115, 118
Śṛṅgāratilaka 115
Sthānapāla 67
Sthānika 24
Strīkitava 97
Strī-saṃgrahaṇa 57, 58
Studies in Indian Painting 130
Study of Punishment 10
Subandhu 117
Śuddhi-tattva 11
Śukra 13
Śūdraka 20, 66
Suicide 53, 54
Śukasaptati 20, 80
Śukranīti 22
Śukranītisāra 19
Śūlapāni 50
Sumantu 51
Suprabhedāgama 136
Surety 31
Svairiṇīja 101
Svapnavāsavadatta 150

'T'

Tantra in Indian Cult of Ecstasy 130
Tattvābhiyoga 69
Temples—kinds of 133
The Cult of Desire 131 f.n.
The Mother 7892f.n.
Theft 26 f.f., 79, 80, 81
Therīgāthā 82, 98
Thomas, P. 131 f.n.
Tooth-marks—kinds of 125
Torture 5
Trainer and trainee 40
Tribes (Kirāta, Pulinda etc.) 3
Tuṣṇīṃdaṇḍa 74
Twelve Tables 6
Taittirīya Brāhmaṇa 143
Taittirīya Saṃhitā 52
Taṇḍulanāli-jātaka 82
Tantra 3, 4, 97, 98, 111, 131

'U'

Uber das Wesen etc. 28
Ubhayavetana 74
Ubhayābhīsārikā 90
Udvāha-tattva 53
Udyānamoṣaka 80
Ujjvala-nīlamaṇi 123
Upāṃśudaṇḍa 74
Usury 31
Uttararāmacarita 11, 150

'V'

Vājasneyī Saṃhitā 11, 143
Vardhamāna 10, 19
Vāsavadattā 98, 117, 151
Vātsyāyana 85, 92, 93, 94, 95, 97, 99, 103, 104, 105, 106, 118, 119, 126, 127, 137, 142
Vedabbha-jātaka 82
Vestal Virgin 88
Vetālapañcaviṃśati 20, 80
Viddhaśālabhañjikā 117
Vidūṣaka 85
Vidyāpati 20, 80
Vijñāneśvara 10, 18
Vikramāṅkadeva-carita 116
Vikramorvaśīya 68, 148
Vinayapiṭaka 20, 81
Viparīta-rati 118, 126 (reverse order)
Viṣakanyā 88
Viṣṇu 72
Viṣṇu-dharmasūtra 6, 8, 12, 51, 139, 142
Viṭa 85, 90
Vivādaratnākara 46
Vrāta 47, 48
Vrātya 1
Vṛddhahārīta 8, 12, 13
Vyavahāra 21
Vyavahāra-mātṛkā 18
Vyavahāramayūkha 52

'W'

Wages (non-payment of) 38
Women—classes of 93, 106, 107
Work (non-performance of) 39

'Y'

Yājñavalkya 6, 8, 19, 11, 12, 13, 16, 18, 21, 22, 23, 24, 26
(*Yājñavalkya-smṛti* not separately written) 27, 30, 31 32, 34, 37, 38, 39, 41, 42, 44, 45, 46, 47, 48, 49, 50, 51, 52, 56, 58, 64, 60, 65, 66, 67, 68, 139, 141, 142
Yajurveda 77
Yama 141
Yama-yamī 76, 148
Yaśodhara 94
Yātrā 144

ERRATA

Page	*For*	*Read*
11	Sudhi-tattva	Śuddhi-tattva
18	Vyavahāra-mārḳā	Vyavahāra-mātṛkā
20	Vetālapañcavirmsat	Vetālarpañcaviṃśatī
60	Darṇḍa-pāruṣya	Daṇḍa—
62 f.n.	Taimmīya Mimaṃsāsūtra	Jaiminīya-Mīmāṃsāsūtra
68	Work nāgarika	Word nāgarika
78	Puranis	Puranic
80	Katharṇava	Kathārṇava
	Karnī-sūta	Karṇī-suta
81	Karkatarajju	Karkaṭarajju
	Bhikṣuṇīvibohañga	Bhikṣuṇīvibhañga
84	Rūpodāsī	Rūpadāsī
97	Samayomāṭrkā	Samayamātṛkā
109	Chip. 25	Chap. 25
135	Mithumas	Mithunas

BY THE SAME AUTHOR

FLORA AND FAUNA

IN SANSKRIT LITERATURE

This latest title by S. C. Banerjee seeks to present a panoramic view of the plant and animal kingdom of ancient India as seen through the pages of the Sanskrit Literature.

The book is an expansive work of meticulous retrival, collection and correlation of Botanical, Zoological, Orinithological and Ichthyological data from the entire span of Sanskrit Literature including the Vedas, the Epics and the Kavyas.

The Locus Classicus has been indicated in the book along with the modern scientific terminology of almost every species and genera of plant, insect and animal that the ancients of India saw and observed around them and recorded in their own classic way.

Only of its kind, the book is a class by itself. A pioneering work of great value in reconstructing the history of natural philosophy in ancient India, this book will be indispensable for tracing the history of botany, zoology and the allied sciences of today.

Demy 8 Vo. pp. 180 (cloth) Rs. 70.00

NAYA PROKASH
206, BIDHAN SARANI,
CALCUTTA - 700 006.